7-28-2011

Hoagland v. Ada County Clerk's Record v. 4 Pt. 1 Dckt. 38775

claims Mr. Munroe did.[43] He was unaware that the credentialing policy applied to him.[44] He was unaware of when in the booking process inmates were first given access to a telephone.[45] He was unfamiliar with the policies governing when a deputy is required to refer an inmate to the social workers for a suicide assessment.[46] He was unaware that classifications could not place an inmate who had been flagged as having a suicide history, such as Mr. Munroe, in a single inmate cell without obtaining approval from the medical unit, *i.e.* a psychiatric social worker.[47] He was unaware that, as a medical staff employee, he had access to the security staff records, which included the JICS forms.[48]

Based on the depositions of Defendant Johnson and other jail employees, a jury could reasonably conclude that Defendant Johnson had not received or read the Ada County policies governing operation of the jail. While Defendant Johnson testified that he reviewed the written policies, he insisted that they were presented to him in hard copy form, which is contrary to the testimony of all other employees of the jail.[49] According to the other employees of the jail, the policies were made available on the computer system but not in hard copy form, as Defendant Johnson testified that he had received them.[50] His testimony suggests he did not receive or review the policies governing the operation of the jail.

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[43] Johnson Dep., 105:11 – 109:2; *see also* Pape Dep., 120:10 – 121:12; Phillips Dep., 44:11 – 45:25, 75:21 – 76:16 and Ex, MMM; Raney Dep., Ex. V (Bates #ACSOPOLICYMANUAL 251, 134).
[44] Johnson Dep., 110:6 – 111:7.
[45] *Id.* at 111:25 – 112:17. If he had known that process, Defendant Johnson may have had a better understanding of the timeframe of Mr. Munroe's telephone call from the jail threatening to take his own life.
[46] *Id.* at 200:10 – -207:23.
[47] Johnson Dep., 245:17 – 248:2.
[48] Johnson Dep., 127:23 – 128:5; Pape Dep., 59:17 – 60:25; Barrett Dep., 220:13-20; *compare* Phillips Dep., 30:10-20 where Phillips testified that she showed Johnson how to access the JICS forms on the computer.
[49] Johnson Dep., 93:18 – 96:5; *see* Phillips Dep., 43:4–44:1.
[50] Phillips Dep., 39:7–40:4; Brewer Dep., 15:15–16:17.

Defendant Johnson testified to his ignorance of common jail terminology, policies and procedures.[51] When he approved Mr. Munroe for Protective Custody Housing (commonly referred to as "PC") in the general population, he did not understand that term to mean that Mr. Munroe would be housed in a cell by himself.[52] Defendant Pape testified that she would be surprised to learn that Defendant Johnson did not know the meaning of "PC" since it was such a common term within the jail.[53] Defendant Johnson testified that he understood the heightened risk a single cell placement can create for an inmate suffering suicidal ideations.[54]

Defendant Johnson also testified that he was not familiar with the NCCHC Standards.[55] As this Court is aware, Ada County expressly incorporated NCCHC Standards into their written policies.[56] Those standards and Ada County's policies set out the standards that are to be used when housing inmates who have a history of suicidality, such as Mr. Munroe.[57] They include warnings against single cell placement and the need for express approval from medical unit staff before an inmate can be placed in a single cell environment without the additional precautions built into the suicide watch protocol.[58]

As is expressed in the NCCHC Standards, Ada County has a written policy requiring all health care providers to hold the appropriate credentials.[59] Nonetheless, Defendant Johnson was unaware of either the policies of Ada County or the laws of the State of Idaho requiring him to hold an Idaho social work license.[60] Defendant Pape testified that she too was unaware of any

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[51] Johnson Dep., 244:17 – 248:2.
[52] Johnson Dep., 244:17 – 248:2; 251:10 – 254:6.
[53] Pape Dep., 71:15 – 76:12.
[54] Johnson Dep., 251:10 – 254:6.
[55] Johnson Dep., 254:7 – 257:12; 262:22 – 267:3.
[56] *E.g.*, Raney Dep., Ex. V (Bates #MEDICALSOP 12).
[57] Raney Dep., Ex. V (Bates #MEDICALSOP 105-111) and Ex. W (Jail & Court Services SOP 1-6).
[58] *Id.*
[59] Raney Dep., Ex. V (Bates #MEDICALSOP 47).
[60] Johnson Dep., 110:6 – 111:7.

requirement applicable to Defendant Johnson that he have a license to practice social work in Idaho.[61]

Defendant Pape acknowledged the absence of formal training of her medical staff on the operation of the jail outside of the medical unit.[62] Formal training would have insured that Defendant Johnson knew PC was a single cell environment and that he had access to the JICS records. It would likely have made it clearer to him the temporal relation between his conversation with Mr. Munroe and the telephone call Mr. Munroe made that morning from the jail threatening to take his life. Overall, Defendant Pape failed to ensure that Defendant Johnson was equipped with the requisite knowledge and understanding of the policies, practices and procedures for performing his job at the Ada County Jail. In fact, her administrative decisions relating to practices and procedures likely made it more difficult for Defendant Johnson and others to understand what was expected of them. On one hand, Defendant Pape testified that where she disagreed with the written policies and procedures of the jail, her staff was to ignore the written policies and procedures and follow "best practices" in their place. On the other hand, Defendant Johnson testified that while he believed there was a "best practice" for performing a suicide assessment in the jail context, he did not know what that practice was and did not take any steps to educate himself on what the best practice might be in that setting.

Defendant Pape admitted to making a conscious decision, shortly after she took over as director in early 2008, to abandon certain parts of the written policies and procedures of the Ada County Jail that she did not agree with. She specifically identified portions of the Ada County Jail policies dealing with suicide risk reduction and prevention as being too cumbersome and

[61] Pape Dep., 188:5 – 189:23.
[62] Pape Dep., 204:25 – 207:5.

unworkable. And, while she indicated she had determined not to follow that portion of the policy she disagreed with, she did not communicate that information to Defendant Johnson. In fact, there does not appear to have been any formal mechanism by which she conveyed to her staff which policies would be followed and which would be ignored. In the context of the policy environment created by Defendant Pape, there is a genuine issue of material fact as to whether there was a failure to adequately train Defendant Johnson on the procedures that he was expected to follow. As Dr. White points out in his supplemental report:

> Given the above, one must ask if Mr. Johnson was simply ignorant about procedure, unfamiliar with the standard operations of his department, inadequately trained to perform his duties, received inadequate supervision, or if a combination of these factors existed at ACJ that affected his ability to provide adequate care for Mr. Munroe. A larger systemic concern is whether the factors that contributed to Mr. Munroe's inadequate care and treatment represent a pattern of practice or custom of supervising employees that created an environment of inadequate care and treatment which was exemplified by the death of Mr. Munroe.[63]

The testimony of Defendant Johnson's immediate supervisor, Shanna Phillips, and that of Defendant Pape reveals a reckless state of mind toward the training needs of the medical staff at the Ada County Jail. Dr. White summarizes the testimony and its import:

> The lack of structured supervisory oversight also seemed problematic with regard to training, particularly during Mr. Johnson's initial period of employment and subsequently concerning on-going continuing professional education. As the following depositions made clear, training for ACJ medical staff appeared to be largely unstructured, narrowly focused, and limited as to specific content or expected outcomes. In contrast to the formal training received by security personnel, the depositions indicate that training for medical staff at ACJ was not as structured and did not ensure predictable knowledge of relevant policy. There was a brief period of initial on-the-job familiarization, but beyond that, Mr. Johnson and Ms. Phillips could not recall any

[63] Affidavit of Thomas W. White, Ph.D., in Support of Plaintiff's Motion for Reconsideration of this Court's January 20, 2011 Memorandum Decision and Order ("Aff. of Dr. White"), Ex. A, pp. 3-4.

> specific training related to policy. Ms. Pape was not familiar with the amount or content of any training they received, including the required 12 hours of mandatory Continuing Education required by policy. Furthermore, she said she would be unable to determine any training they received because there was no documentation.
>
> Regarding suicide policy, Ms. Phillips said that she gave Mr. Johnson a copy of the Suicide Prevention Policy to review but did not verify that he read and understood its requirements. She did, however, say that she thought he was aware of the policy based on his activities. She did not know if he received any other training on suicide assessment while at ACJ, something I believe she should have known as his supervisor. The very fact that Mr. Johnson admitted to not being familiar with the NCCHC standards that were the backbone of ACJ suicide prevention policy suggests the lack of meaningful training or supervision. If nothing else, one could wonder if training deficiencies contributed to Mr. Johnson's ignorance about the nature of PC status and that he was releasing Mr. Munroe to a single cell.[64]

It appears from the record that the absence of adequate training was a moving force in the violation of Mr. Munroe's constitutional rights.

For the reasons stated herein, Ada County appears to have been deliberately indifferent to the need for adequate training of Ada County Jail medical staff, and that indifference resulted in the constitutional deprivation suffered by Mr. Munroe. As such, summary judgment in favor of Ada County is inappropriate since Defendant Pape was an official whose actions were tantamount to setting Ada County Policy.

b. Lack of Supervision and Discipline

An environment existed at the Ada County Jail where there was little supervision and even less discipline of employees who violated written policies. The record is replete with examples of policy not being followed in the areas of suicide screening, suicide assessment, 14-day health assessments, 14-day mental health assessments, medication disbursements, treatment

[64] Aff. of Dr. White (Feb. 11, 2011), Ex. A, pp. 5-6.

plans, discharge plans, classification/housing, and having a full time physician employed at the jail to supervise the medical staff.[65]

As described by Dr. White, these problems appear to have been a result of the hands-off, *laissez-faire* approach to operating the jail that was taken by Defendants Raney, Scown and Pape:

> There is ample evidence from the record that they engaged in a pattern and practice of intentional policy noncompliance over the course of many years. It was common knowledge among ACJ administrators that it was the custom and practice of Health Service Administrators to selectively choose those parts of policy that most suited their needs or preferences and to redefine or ignore requirements they did not agree with or failed to meet. Various Ada County officials also willfully ignored the potential consequence of those acts by not instituting meaningful oversight strategies or corrective mechanisms to ensure the adequacy of the care being provided. As a result of their indifference, parallel practices were being implemented outside of policy and staff were operating without sufficient oversight and guidance, creating an environment that was sufficiently deficient to deprive inmates of their constitutional right to adequate care, which led to Mr. Munroe's death.[66]

One of the more obvious examples of these three Defendants ignoring written policy was found in the absence of a full-time physician working in the jail, as required by their own written policies.

> The last supervision related matter pertains to the overall clinical supervision of the social workers and mental health program. ACJ has no full time physician or psychiatrist to serve the needs of 850 offenders. They do provide physician services by utilizing two outside consultants. Dr. Michael Estess is most often mentioned as being responsible for overseeing psychiatric services. Yet, in truth he has a very loosely structured contract to provide 4-6 hours of service per week. In his deposition he made it very clear that he did not see himself as anything more than a consultant with no

[65] *See* Aff. of Dr. White (Nov. 26, 2010), ¶ 3, Ex. A; Aff. of Dr. White (Feb. 11, 2011), ¶ 3, Ex. A; Aff. of Dr. Metzner, ¶ 3, Ex. A.
[66] Aff. of Dr. White (Feb. 11, 2011), Ex. A, pp. 11-12.

> supervisory or oversight responsibility. He said that he was not familiar with ACJ policies and felt no obligation to ensure policy compliance. Other than direct patient service, he saw his role purely as a consultant that was available if staff sought him out for advice in handling a case. He said he did not remember ever meeting with Ms. Pape about the suicide and did not remember anything about discussing the case with Mr. Johnson, except that it happened. After reviewing all of the depositions, it is difficult to conclude that there is or was any professional designated to provide day-to-day oversight for the mental health operation. By default that duty appeared to fall to Ms. Phillips, but that was not reflected in her job title or training and she seemed ill prepared to perform those duties.[67]

Defendants Raney, Pape and Scown each had knowledge that there was no full-time physician at the Ada County Jail (whether for medical or mental health care) to supervise the operation of the medical health unit.[68] A conscious decision was made to contract with two physicians for a number of hours one day per week of service for each provider, rather than to employ a full-time doctor to supervise the work of the medical staff as was required by Ada County policy and NCCHC Standards.[69]

Defendant Johnson testified that he had little supervision and was never disciplined for anything during his eighteen months at the jail.[70] The absence of supervision and discipline suggests a deliberate indifference toward the constitutional protection inmates are entitled to since Defendant Pape acknowledged in her deposition that she knew Defendant Johnson was not familiar with NCCHC Standards (and by extension Ada County Jail policies),[71] and had problems maintaining professional distance with the inmates under his care;[72] and yet, she still

[67] Aff. of Dr. White (Feb. 11, 2011), Ex. A, p. 6.
[68] Johnson Dep., 243:24 – 244:14.
[69] Raney Dep., Exs. O & P.
[70] Johnson Dep., 11:14 –12:19; 17:22 – 35:1; 52:23 –59:23; 62:1 –82:14; 88:25 – 98:5.
[71] Pape Dep., 195:15–197:25.
[72] Pape Dep., 198:23–200:16.

recommended Mr. Johnson for a 5% raise, which was two points higher than the norm.[73] Defendant Johnson was never disciplined for any of his actions involving the death of Mr. Munroe.[74]

3. The Gross Negligence and Recklessness of Defendants Raney, Scown and Pape

In training, supervision and discipline cases such as this, it is sufficient for a plaintiff to show gross negligence on the part of the policymakers in order to hold the municipality liable. *White v. Washington Public Power*, 692 F.2d 1286, 1289-90 (9th Cir. 1982); *Hegarty v. Somerset County*, 53 F.3d 1367, 1379-80 (1st Cir. 1995); *Owens v. Haas*, 601 F.2d 1242, 1246 (2nd Cir. 1979); *Turpin v. Mailet*, 619 F.2d 196, 202 (2nd Cir. 1980); *Hampton v. Holmesburg Prison Officials*, 546 F.2d 1077, 1081 (3d Cir. 1976); *White v. Rochford*, 592 F.2d 381, 385 (7th Cir. 1979); *Brooks v. Sheib*, 813 F.2d 1191, 1193 (11th Cir. 1987); *Liability of Supervisory Officials and Governmental Entities for Having Failed to Adequately Train, Supervise, or Control Individual Police Officers Who Violate Plaintiff's Civil Rights Under 42 U.S.C.A. §1983*, 70 A.L.R. Fed. 17 (originally published in 1984) and cases cited therein. The record in this case discloses ample evidence to meet that standard and, as such, summary judgment in Ada County's favor is inappropriate.

4. Defendants Raney, Scown and Pape Ratified Defendant Johnson's Unconstitutional Decisions and Actions, Which Makes Ada County Liable Under § 1983

A local government may be held liable under § 1983 when an official with final policymaking authority ratifies a subordinate's unconstitutional decision or action and the basis for it. "If the authorized policymakers approve a subordinate's decision and the basis for it, their

[73] Pape Dep.,189:24 –192:6; Johnson Dep., 268:17 – 271:3.
[74] Johnson Dep., 96:14-18.

ratification would be chargeable to the municipality because their decision is final." *Clouthier v. County of Contra Costa*, 591 F.3d 1132, 1250 (9th Cir. 2010) (citing *St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988)). As has already been discussed, Defendant Johnson was not disciplined for his actions relating to Mr. Munroe's death. Defendants Raney, Scown and Pape had final decision-making authority to discipline Defendant Johnson. According to the testimony of Defendant Johnson, Defendant Pape, and Dr. Estess, all discussions with Defendant Johnson relating to his actions involving Mr. Munroe were supportive, and not one statement was made that was critical of his actions in any respect.[75]

II. INDIVIDUAL CAPACITY CLAIMS

A. INDIVIDUAL SUPERVISORY LIABILITY OF DEFENDANT PAPE

Generally, "[a] supervisor may not be held liable under section 1983 merely because his subordinate committed a constitutional tort." *Poe v. Leonard*, 282 F.3d 123, 140 (2nd Cir. 2002) (citing *Blyden v. Mancusi*, 186 F.3d 252, 264 (2nd Cir. 1999)). However, a supervisor may be liable for a subordinate's action when he (1) directly participated in the action; (2) failed to remedy the wrong after learning of the violation through a report or appeal; (3) created a policy or custom under which unconstitutional practices occurred, or allowed such a policy or custom to continue; or (4) was grossly negligent in managing subordinates who caused the unlawful condition or event. *Ybarra v. Reno Thunderbird Mobile Home Village, et al.*, 723 F.2d 675, 680 (9th Cir.1984); *McClelland v. Facteau*, 610 F.2d 693, 696 (10th Cir.1979); *Wanger v. Bonner*, 621 F.2d 675, 679-81 (5th Cir.1980); *Baker v. Putnal*, 75 F.3d 190, 200 (5th Cir. 1996); *Williams v. Smith*, 781 F.2d 319, 323-4 (2nd Cir. 1986); *Colon v. Coughlin*, 58 F.3d 865, 873 (2nd Cir. 1995); *al-Kidd v. Gonzales*, 2008 WL 2795137, * 5 (D. Idaho).

[75] Pape Dep., 217:25 – 218:25; 223:14 – 225:13.

A supervisor is grossly negligent or deliberately indifferent when he "knew or should have known" that there was a high degree of risk that a subordinate would violate someone's rights but "either deliberately or recklessly disregarded that risk by failing to take action that a reasonable supervisor would find necessary to prevent such a risk, and that failure caused a constitutional injury." *Poe*, 282 F.3d at 142; *see also Provost v. City of Newburgh*, 262 F.3d 146, 155 (2nd Cir. 2001) (stating that there can be no liability for gross negligence absent evidence that a supervisor "knew or should have known" about an illegality).

In this case, the evidence demonstrates Defendant Pape's deliberate indifference to the constitutional rights of inmates such as Mr. Munroe. The evidence demonstrates that she created a custom of not following written policy and permitted the policy violations to continue.

The evidence also demonstrates her gross negligence in managing her subordinates who caused Mr. Munroe's death.

DATED this 11th day of February, 2011.

JONES & SWARTZ PLLC

By _____
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 2011, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

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Sherry A. Morgan
Ray J. Chacko
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Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY, a political subdivision of the State of Idaho; *et al.*,

Defendants.

Case No. CV-OC-2009-01461

AFFIDAVIT OF THOMAS W. WHITE, Ph.D., IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER

STATE OF KANSAS)
: ss.
County of Johnson)

I, Thomas W. White, Ph.D., being first duly sworn upon oath, depose and state:

1. I am a psychologist, licensed to practice in the state of Kansas.

2. I am familiar with this case based upon my review of the discovery materials and depositions provided to me by Plaintiff's attorneys, and I make this affidavit based upon my own

personal knowledge. If called upon to testify about the same, I could do so competently.

3. Attached hereto as Exhibit A is a true and correct copy of my February 3, 2011 supplemental report, which affirms my professional opinions.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

THOMAS W. WHITE, Ph.D.

SUBSCRIBED AND SWORN TO before me this 9th day of February, 2011.

Notary Public for Kansas
My Commission expires 8/20/2012

HEATHER R. WIEBKE
Notary Public
STATE OF KANSAS
Johnson County
My Commission Expires

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 2011, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
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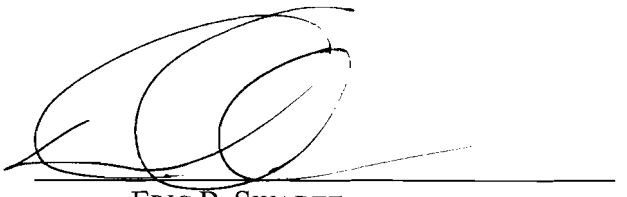

ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT A
To Affidavit of Thomas W. White, Ph.D., in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

EXHIBIT A
To Affidavit of Thomas W. White, Ph.D., in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

THOMAS W. WHITE, Ph.D.

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February 3, 2011

Eric B. Swartz
Jones & Swartz, PLLC
1673 West Shoreline Drive, Ste 200
Boise, ID 83702

Re: Hoagland/Monroe v. Ada County Jail, et al.

Case No. CV-OC-2009-01461

Dear Mr. Swartz:

On October 11, 2010, I provided a report giving my expert opinion regarding the adequacy of suicide prevention policies and procedures at the Ada County Jail (ACJ) as well as the treatment provided to Mr. Bradley Munroe during his incarceration. Following that report, I provided a deposition concerning the case on November 18, 2010. On January 20, 2010, you ask me to continue working on the case and forwarded depositions and exhibits that had been obtained since my report and deposition was submitted.

On January 22, 2010, you forwarded me a copy of the Court's decision on the Defendants' Motion for Summary Judgment and several other depositions and exhibits. At that time you further requested that I review the material and compile a supplemental report based on the new material. This report sets forth my findings and opinions on that material as it pertains to the opinions presented in my earlier report and deposition.

As stated in my previous report, the following opinions may be modified if additional documents or information such as depositions, affidavits, or reports are subsequently made available.

FINDINGS

I will not repeat the findings and analysis presented in my first report, but will outline the general areas presented in that report where I felt problems existed in the treatment of Mr. Munroe. They were: 1) Medical Intake History/Receiving Forms Issues; 2) Medication Issues; 3) Staff Performance/Policy Compliance Issues; 4) Clinical Assessment/Treatment Issues; and finally, 5) Administrative Issues.

After reading the new material, I found nothing that changes the opinions proffered in my previous report. In my judgment the information contained in the new material not only supports my previous opinions, but strengthens them. I will begin my analysis by reviewing the actions of Mr. James Johnson, MSW, and then show how the action or inaction of Ada County officials is linked to the death of Mr. Munroe.

Mr. Johnson's Management of Mr. Munroe

To briefly summarize the major points of my previous report, it was opined that Mr. Munroe's care was inadequate, in part, because Mr. Johnson provided a below standard clinical interview and suicide assessment, ignored two additional pieces of new information obtained subsequent to his initial interview, and did not document his contact with Mr. Munroe in a manner consistent with accepted standards of practice. After reviewing the depositions of the plaintiffs' other clinical experts, Nathan Powell, MSW, LCSW, and Jeffery Metzner, M.D., there appears to be substantial agreement with my conclusions or opinions.

Defendants' Expert Witness Disclosures

The Defendants' Expert Witness Disclosure contains reports from several clinical experts: Leslie Lundt, MD., Charles Novak, M.D., and Brian Mecham, LCSW, DE. The reports and disclosure statements of Drs Lundt and Novak provide considerable detail about Mr. Munroe's personal history and possible diagnosis, but offer no direct link between their findings and Mr. Munroe's treatment at ACJ. In fact, they say little about the actions of Mr. Johnson and other defendants, except that they were not deliberately indifferent. As of the writing of this report, I have not been provided additional information or depositions for review.

Mr. Mecham, LCSW, DE, on the other hand, offered direct observations in support of Mr. Johnson's actions. In part, he proposed that numerous brief mental health interviews of the nature and duration of Mr. Johnson's was typical of jail social work and that it was not uncommon to chart after seeing the offender. He also addressed several issues concerning intoxication, privacy and lack of cooperation on the part of the offender. He closed his report, in part, by saying, "That the brief interview is not something you would do in an outpatient clinic, psychiatric hospital, or even a prison. County Jail social work is a different setting."

While I agree that jails do present different environments and challenges, it does not follow that a lower standard care is acceptable or should be tolerated, particularly when accommodations are available. Mr. Johnson's deposition indicates there were places to talk that were more private or

that officers would leave them alone if he requested. However, Mr. Johnson simply did not take the time to exercise those options. The issue in this instance is not lack of accommodations, but Mr. Johnson's unwillingness to seek out a more adequate setting for his interview. This was clearly a matter of choice on Mr. Johnson's part, not and inevitable consequence of working in a jail setting.

The central issue, however, is not whether a brief, semi-private interview is common practice in jails, because it is. Rather, the issue is whether Mr. Johnson's actions were consistent with acceptable standards of care under the prevailing circumstances given the information he had available to him at the time. Specifically, the information available to him was Mr. Munroe's bizarre behavior the night before (which one experienced nurse, Michael Brewer, RN, described as psychotic), his suicide history and previous treatment for mental illness, and the fact that he was being removed from suicide watch. It seems clear from the record that Mr. Johnson eschewed an adequate clinical interview in favor of his untested, preconceived nexus between the previous night's behavior and Mr. Munroe's level of alcohol intoxication. As a result, it is still my opinion that Mr. Johnson's actions at a potentially critical intervention point evidences an unacceptable standard of care.

However, despite releasing Mr. Munroe from suicide watch, Mr. Johnson's deposition suggests he still had some concerns about his safety. This conclusion is drawn from his statement that part of his thinking to release him to the pre-classification unit was because there were other inmates there (presumably making for a safer environment). Yet, shortly thereafter, when he was contacted by Officer Drinkall concerning Mr. Munroe's request for protective custody (PC), Mr. Johnson authorized placement in a single cell. When queried about his decision, Mr. Johnson stated that he did not know that PC required single cell status. In fact, he indicated that he did not even know what the term PC meant.

In my experience, the fact that he worked in a jail, even for a short period, and he did not know the term PC seems surprising. Even Ms. Pape, who was responsible for jail operations and who was quite supportive of Mr. Johnson, felt he should have known its meaning because, she said, it is a pretty common term in jail. Furthermore, in another deposition, Officer Bowels, who worked at ACJ for many years, indicated that it is common practice for officers to call and get clearance from mental health staff for any inmate with a suicide history to be placed in a single cell. She said while not common, in her personal experience such requests occurred on a weekly bases. Thus, being one of two social workers in mental health, it seems unreasonable that he had never heard the term PC or received a single cell request for an offender with a suicide history. Be that as it may, one can not help but wonder if knowing PC was a single cell placement would have influenced his decision and whether Mr. Munroe would still be alive if he had not been placed in a single cell.

Supervision of Mr. Johnson

Given the above, one must ask if Mr. Johnson was simply ignorant about procedure, unfamiliar with the standard operations of his department, inadequately trained to perform his duties, received inadequate supervision, or if a combination of these factors existed at ACJ that affected

his ability to provide adequate care for Mr. Munroe. A larger systemic concern is whether the factors that contributed to Mr. Munroe's inadequate care and treatment represent a pattern of practice or custom of supervising employees that created an environment of inadequate care and treatment which was exemplified by the death of Mr. Munroe.

During the time Mr. Johnson was employed at ACJ, his supervisor was Shanna Phillips, LCSW. From the depositions it appears the supervisory relationship was largely one of a senior colleague and working peer rather than a structured process of formal supervision. This type of supervisory relationship, while it has its merits, does not systematically ensure that employees receive adequate levels of relevant training or information. Moreover, due to the collegial nature of the relationship, it is often difficult to conduct a truly rigorous evaluation of a new employee's strengths and weaknesses or ensure sufficient levels of documentation to address their strengths and weakness.

For example, following Mr. Munroe's death, which was clearly an important sentinel event, there were apparently several administrative reviews conducted. However, there is no indication that anyone discussed the clinical ramifications of the incident in any meaningful detail with Mr. Johnson. Ms. Phillips, his immediate clinical supervisor, said she did not talk with Mr. Johnson. A meeting held with Ms. Phillips, Dr. Estess, and Mr. Johnson about the incident apparently was generally supportive, but none of the participants could recall any details of the meeting.

That is not to say Ms. Phillips had no official supervisory input. Mr. Johnson did receive two evaluations from Ms. Phillips, one on December 16, 2008, and the other on June 19, 2009, but other than those ratings, there are no other evaluations, notes, memos, or references to supervisory interactions. The latter is important only because both evaluations rather opaquely reference statements by Mr. Johnson himself reporting the need to improve his documentation and familiarity with policy. Most revealing were his references about his "need to help" and "verify facts before supporting inmates manipulative, dishonest behavior."

The latter issue was apparently of sufficient importance to be discussed with Ms. Pape and was briefly referenced in her deposition explaining Mr. Johnson would " do things that by a jail standard is probably crossing a professional boundary of wanting to help too much." In my experience, this comment suggests some ongoing difficulties in maintaining sufficient emotional distance between him and offenders, which in correctional settings is a serious concern. Nevertheless, there is no supporting documentation concerning the incident(s), counseling that was provided, remediation efforts, follow up, or relevant training.

Similarly, Ms. Phillips apparently never formally reviewed his performance and did not sign off on his work, even during his initial phase of employment. This is relevant from a professional standards and practices standpoint because Ms. Phillips knew Mr. Johnson was not licensed in the State of Idaho and therefore knew, or should have known, he could not provide clinical services without direct supervision, which is typically a standard component of state licensure. She also knew Mr. Johnson worked under the same general position description that required licensure and upon inquiry, stated she felt licensure was necessary to present yourself as a jail social worker.

In a subsequent portion of her deposition, however, she contradicted herself by saying that she thought Mr. Johnson was exempt from licensure. She apparently never sought to resolve the conflict or seek input from her supervisor. Furthermore, Ms. Phillips claimed ignorance of the ACJ's credentialing policy, which in my judgment she should have known, or at least reviewed, as a supervisor who knew her subordinate was not licensed. Ms. Phillips also said that while she never directly discussed the issue with her supervisor, Kate Pape, she was aware that Ms. Pape knew Mr. Johnson was not licensed in Idaho.

Relevance of Licensure

The issue of Mr. Johnson's licensure is not simply a matter of whether he was or was not competent or could have been licensed in Idaho if he applied. This was a point referenced by several Ada County officials. From my perspective, it is emblematic of how Ada County officials dealt with clear, well define instances of noncompliance that were brought to their attention. To summarize, we know that Mr. Johnson knew an Idaho license was a requirement for the position, but nevertheless, did not pursue it. We know he was hired four days before his California license expired, so it is unclear from the record if he was licensed in California for all but a few days of his ACJ employment. We know his immediate supervisor, Ms. Phillips, was aware he was not licensed, knew or should have known, it violated policy, but did not seek to become knowledgeable about the agencies credentialing policy. We know that Ms. Phillips' immediate supervisor, Ms. Pape, also knew Mr. Johnson was not licensed and that neither Ms. Phillips nor Ms. Pape ever took any action to resolve the issue. At some point, Sheriff Raney also became aware of the problem, but he or no one else in the administrative chain of command ever sought to rectify the problem throughout the course of Mr. Johnson's employment. Based on my training and experience as a program administrator, this collection of facts goes beyond a simple matter of Mr. Johnson's qualifications. In my view, it highlights the intentional indifference of management officials to comply with their own policies. More important, it shows their willingness to selectively pick and choose between parts of policy that suited their current needs and ignore requirements they failed to meet.

Training for HSU Staff

The lack of structured supervisory oversight also seemed problematic with regard to training, particularly during Mr. Johnson's initial period of employment and subsequently concerning on-going continuing professional education. As the following depositions made clear, training for ACJ medical staff appeared to be largely unstructured, narrowly focused, and limited as to specific content or expected outcomes. In contrast to the formal training received by security personnel, the depositions indicate that training for medical staff at ACJ was not as structured and did not ensure predictable knowledge of relevant policy. There was a brief period of initial on-the-job familiarization, but beyond that, Mr. Johnson and Ms. Phillips could not recall any specific training related to policy. Ms. Pape was not familiar with the amount or content of any training they received, including the required 12 hours of mandatory Continuing Education required my policy. Furthermore, she said she would be unable to determine any training they received because there was no documentation.

Regarding suicide policy, Ms. Phillips said that she gave Mr. Johnson a copy of the Suicide Prevention Policy to review but did not verify that he read and understood its requirements. She did, however, say that she thought he was aware of the policy based on his activities. She did not know if he received any other training on suicide assessment while at ACJ, something I believe she should have known as his supervisor. The very fact that Mr. Johnson admitted to not being familiar with the NCCHC standards that were the backbone of ACJ suicide prevention policy suggests the lack of meaningful training or supervision. If nothing else, one could wonder if training deficiencies contributed to Mr. Johnson's ignorance about the nature of PC status and that he was releasing Mr. Munroe to a single cell.

Professional Supervision of HSU Mental Health Staff

The last supervision related matter pertains to the overall clinical supervision of the social workers and mental health program. ACJ has no full time physician or psychiatrist to serve the needs of 850 offenders. They do provide physician services by utilizing two outside consultants. Dr. Michael Estess is most often mentioned as being responsible for overseeing psychiatric services. Yet, in truth he has a very loosely structured contract to provide 4-6 hours of service per week. In his deposition he made it very clear that he did not see himself as anything more than a consultant with no supervisory or oversight responsibility. He said that he was not familiar with ADJ policies and felt no obligation to ensure policy compliance. Other than direct patient service, he saw his role purely as a consultant that was available if staff sought him out for advice in handling a case. He said he did not remember ever meeting with Ms. Pape about the suicide and did not remember anything about discussing the case with Mr. Johnson, except that it happened. After reviewing all of the depositions, it is difficult to conclude that there is or was any professional designated to provide day-to-day oversight for the mental health operation. By default that duty appeared to fall to Ms. Phillips, but that was not reflected in her job title or training and she seemed ill prepared to perform those duties.

Policy Makers and Policy Oversight

Two people have clear lines of authority within the ACJ for policy oversight: Ms. Pape, who is the administrator of the Ada County Jail Health Services Unit (HSU) and Linda Scown, now retired, was the Captain and Jail Administrator. Ms. Scown reported directly to Ron Freeman the Chief Deputy, who ultimately reported to Sheriff Raney. The depositions of Ms. Pape and Ms. Scown offer revealing new insights into the management philosophy and operations of the ACJ. Ms. Pape's deposition makes it clear that when she took her position early in 2008, the ACJ was not in compliance with NCCHC requirements and apparently that condition existed, to some degree, since being accredited in 2004. She saw part of her role as getting the jail into compliance and then be able to regain accreditation. The steps she was taking to achieve that goal were, in my judgment, quite difficult to follow and in many instances were somewhat confusing and convoluted.

Kate Pape Deposition

As stated above, Ms Pape made it clear that her desire was to follow NCCHC requirements, which were the foundation for ACJ policies and the basis for accredidation. However, she said the policies in many areas did not represent best practice and she was developing a new standard operating procedure manual to reflect what were, in her opinion, better standards of care and more in line with actual practice, which apparently was different than policy. She also said that in some instances the policies were too detailed and she wanted to change how they were implemented. A considerable portion of her deposition echoed that repeated theme. Namely, that the operating procedures she was developing were a better set of best practices than the policy. Where policy was better it was followed, where she disagreed, it was not. When there was some existing difference between policy and her operating procedures she would refer to that as a period of transition.

The following passages from her deposition capture the tenor of her answers regarding policy compliance. Ms. Pape would be asked something to the effect, were the policies being followed in September of 2008 or were they in transition? In one instance she replied to that question by saying:

"It certainly is a very broad question. So I think whereas the standard operating procedure and policy was good, and made sense, and was appropriate, we followed it. Where it wasn't, we didn't. Which I know was not ideal. But any system, if it is a good system, is a system that is changing and constantly improving. And sometimes -- in my opinion – to ensure that the practice is appropriate, and the policy catches up, is important. What we did not want to do was institute a whole new standard operating procedure manual that did not reflect what we were doing at all. We needed to ensure that the practice we were conducting, and the services we were providing, were appropriate."

To a similar question, "Is the suicide policy being followed?" she responded:

"In my opinion, and I don't remember it very detailed, but, in my opinion, the suicide precaution policy was very cumbersome. It was very lengthy. Very cumbersome. And I don't think very user friendly. So when we updated it we did change that policy. Or the standard operating procedure."

When asked about whether certain provisions of policy were mandatory or if policy had to be followed, her answers frequently stated that discretion is the most important aspect of applying policy. For example, in this exchange Ms. Pape responded:

Q. Do you agree that it is mandatory for the deputy who does the intake questionnaire and the inmate says "yes" to one of those questions, that they immediately notify the Health Services staff?

A. "That is what the policy says."

Q. And you agree with that? That that is what should be done?

A. "You know, it's interesting. It depends. There is so many things that we do. There are times when we have had deputies take steps to keep the inmate safe prior to notifying Health Services. We have had

inmates brought down in the middle of the night and put in a suicide gown and kept in medical because the risk was high, but there wasn't a health service staff immediately available. So the deputy takes steps to keep them safe. So though there is obviously the best of intentions in the policy there are times when again the practice necessitates a different approach with the hopes of a better outcome. And we have actually had conversations with our deputies about that very issue. Because there are times when people will show up again in our health services division in a suicide gown on a watch that we hadn't seen yet. And so we have had that conversation of find us and tell us via radio. And they said, you know, our primary responsibility is to keep them safe. So, yes, we are going to notify you. But we are going to make sure they are safe first."

In my reading of Ms. Pape's deposition, the above excerpts reflect themes that were repeated in many different forms to many different questions. Basically she felt that the policies did not reflect best practice, that her ideas of best practice were superior, and that there was equivalence between written policy and operating procedures. It also appeared she believed that policy was only a guide that could always be preempted by officer discretion. Her comments made it very clear that she believed policy did not have to be followed if she did not agree with it or if common sense negated it.

Deposition of Linda Scown Deposition

Next in the chain of command was Captain Scown who was responsible for all jail operations and reported directly to Ron Freeman the Chief Deputy, who in turn reported to Sheriff Raney. Ms. Scown began her deposition by saying that her primary responsibility at the jail was to ensure jail culture was transmitted. When queried about her answer she said she has a management team that runs operations but her philosophy in the jail is for the inmates to give respect and get respect. She said they are kind to the inmates.

When asked about her role in policy, she maintained that her department heads, three lieutenants in security and Kate Pape in HSU, developed policy. She left operations to them. It was their responsibility to develop and maintain policy and to oversee operations of their departments. As with Ms. Pape, when asked about the mandatory nature of policy provisions she replied, "certainly what is very important is allowing my deputies to observe the totality of the circumstances and use good judgment in their decision making. Because not everything has got an answer in the policy manual."

Ms. Scown's management philosophy did not include any on-going risk management program to monitor policy compliance from her office nor was she aware of any such on-going review function from her management team. She was not conversant with most policies, practices, or procedures, deferring in most cases to her management teams' responsibility to monitor operations. For example, she relied on Ms. Pape to ensure training was provided to her staff and was not aware of any HSU training requirements. Most interesting was the fact that Ms. Scown did not even know why the NCCHC survey was canceled. She said that Ms. Pape told her they were not coming, but could not remember the details. Given that accreditation of their medical services was a significant milestone in the jail's medical operations, her inability to remember any details associated with that event is unexpected, but unfortunately seems consistent with her relatively hands off approach to management.

In general, Ms. Scown said she typically became aware of problems when difficulties arose and then attempted to address the problem. In essence, she seemed to espouse a don't tell, don't ask management style where she assumed her subordinates did their jobs well and did not ask or get involved unless she was told a problem existed. Based on my experience, for someone responsible for the overall operations of an 850-bed jail, such a laissez-faire management style seems far less proactive than what is needed to ensure a well-functioning correctional environment.

Deposition of Gary Raney

Mr. Raney is the Ada County Sheriff and is responsible for oversight of the ACJ. As would be expected, however, he does not have direct oversight and manages overall jail operations through a chain of subordinates. Although unclear about the details of many policies and procedures, through this chain of command he is made aware of significant issues and was generally conversant with relevant HSU deficiencies that had been problematic for some time. Mr. Raney described the on-going issue of noncompliance with 14-day health reviews as a chronic problem for many years that was primarily due to staffing issues. He also talked about the amount of overall program oversight provided by contractors, specifically Drs Garrett and Estess. In the case of Dr. Estess, he seems to ascribe more responsibility for oversight of general psychiatric care than was described by Dr. Estess or was actually being performed. When asked about the Johnson licensure issue he simply said that while the requirement was important, his concern was that he could do the job. When asked about training he was aware that medical staff did not receive as much training about jail issues as did security staff. He relied on HSU managers to provide what was necessary and assumed they were competent to perform their professional duties. As with other Ada County officials many questions about policy compliance focused on discretion rather than mandatory actions.

ANALYSIS OF NEW INFORMATION

In all of the depositions, but most rigorously stressed in Ms. Pape's, there are frequent references to a conflict between providing best practice care and the best practice standards reflected in the NCCHC policy requirements needed for accreditation. Specifically, ACJ managers state that in order to maintain NCCHC accreditation, which they maintain is the agency's goal, they must follow the NCCHC best practices reflected in their existing policies, which is generally accurate. However, for whatever reason, they do not agree with or are not compliant with some aspects of the policies, and apparently have not been in compliance since 2004. With a change in HSU management sometime in 2008, policy makers continued to change or ignore some NCCHC practices. However, they have not chosen to institute any systematic policy reviews, quality control mechanisms, or risk management strategies to evaluate existing procedures and determine if they still meet an adequate standard of care. To that point, it seems that the withdrawal of NCCHC accreditation was due, in part, to the lack of documentation about the effectiveness of program operations.

It appears Ms. Pape has replaced some NCCHC policy requirements with standard operating procedures, which may or may not include some or all of the NCCHC standards. It also appears

her supervisors have condoned or were indifferent to the ramifications of her actions. It appears they have not initiated sufficiently proactive oversight measures to ensure program integrity. In my view, policy makers should have known that ineffective oversight of Ms. Pape's modifications jeopardized adequate patient care by creating uncertainty and inconsistency that virtually guarantees noncompliance with existing policy. Hence, what is taken to be official ACJ policy, may or may not actually be occurring, and therefore, it is impossible to know if offenders are receiving constitutionally adequate medical care.

In addition, the stated conflict between institution best practice and NCCHC policy, in my experience, is based on an insoluble, intellectually inconsistent set of assumptions about the critical nexus between NCCHC policy and NCCHC accreditation. The NCCHC accredidation standards are based on correctional best practice. That is, in fact, exactly what they are. Those best practices, however, are not evidence-based (i.e., the result of empirical research) and therefore can be subject to legitimate managerial interpretation and modification. As such, it is not necessary to follow NCCHC standards or to include them in institution policy if you disagree with them, for they are voluntary and have no force of law. But they are required to achieve NCCHC accreditation because it is inextricably intertwined with NCCHC policy requirements. Therefore, the options are relatively simple — follow the policy and maintain accreditation or change the policy and forego accreditation. But to my knowledge, it is not possible to substantially alter NCCHC based policy and still maintain accreditation.

That said, whether it is NCCHC standards or other standards of care, once policy is written and approved by agency officials, it must be maintained, monitored and enforced at all levels of the organization until it is officially changed, regardless of personal likes or dislikes. Operational manuals that explain in more detail how policy is to be implemented are frequently standard practice and are very useful to provide additional guidance to staff. But operational manuals are intended to supplement, not supercede policy and they should not provide direction that is in conflict with policy.

Finally, many of the issues concerning policy compliance, supervision, and training are related in some direct or indirect way to staffing levels. Ada County officials at all levels of government are responsible for ensuring that staffing levels are sufficient to provide adequate care. Obviously administrators must work within realistic resource constraints, but they must also prioritize their resources to address chronic issues of serious policy noncompliance that have potential constitutional ramifications. In the case of the ACJ, it seems clear the deficiencies in meeting HSU policy objectives were known and routinely ignored over a period of years. In most cases these deficiencies were explained away by referring to conflicts between best practices, not knowing policy, assuming subordinates were doing their jobs, or not wanting to usurp the discretion of staff to use reasonable judgment. In my opinion, on a case-by-case basis these explanations might have merit. But as answers for repeated and chronic health policy noncompliance, they raise serious questions about the priorities Ada County officials give to ensuring that ACJ offenders receive constitutionally adequate health care.

Policy Compliance and Individual Discretion

In my experience, an institution's policy fulfills at least two basic functions; it provides written, objective standards that demonstrate how the institution is fulfilling it legal mandate; and it provides guidance to staff about how to meet those standards. A persistent theme in all of the depositions was the need to ensure discretion when implementing policy. Indeed, that is necessary, but an over emphasis on individual discretion can also be another way to justify unacceptable levels of noncompliance, particularly frequent occurrences over an extended period of time. In my view, policy compliance is the keystone in the arch of constitutionally adequate care. As such, policy that is subject to the discretion of individuals within the organization offers no guarantee of sufficient legal safeguards and impedes staff from applying any policy guidance consistently. Rather than supplant official policy with a set of personal practices, the role of agency policy makers is to ensure policy compliance, until such time as other official policy changes are accepted or a verifiable plan is in place to rectify the problem. Given the confusion about the supremacy of policy over the course of many years, it is little wonder that Ms. Phillips remarked in Mr. Johnson's last performance evaluation that, "Compliance with NCCHC standards is a work in progress. Many of the HSU policies and procedures are in the process of being developed. Jim, along with the rest of the HSU staff, is continually gaining knowledge of these standards and he is compliant with them."

OPINIONS TO BE EXPRESSED

The following opinions are based on my previous report, a review and analysis of the above depositions, and my training and experience in government service as a writer, implementer, and monitor of correctional policy. Specifically, it is my opinion that the pervasive and generally accepted laissez-faire management practices exercised by Ada County policy makers created a common practice of policy noncompliance that jeopardized the delivery of constitutionally adequate medical care causing Mr. Munroe's death.

People of good conscience can disagree as to whether Mr. Munroe's death resulted from one or a combination of factors that include inadequate training, poor supervision, personal negligence, or institutional indifference to conditions that jeopardized adequate medical care. Nevertheless, there are clear instances were staff did not seem adequately trained or informed to perform their duties. Some simply did not exercise due diligence in performing their duties. In other instances they ignored or did not seek to determine the existence of potential risk to Mr. Munroe and some defendants did not perform their duties in a manner consistent with accepted professional standards and practices.

The common factor linking all of these deficiencies is the inadequate management practices of Ada County decision-makers at all levels of the organization. There is ample evidence from the record that they engaged in a pattern and practice of intentional policy noncompliance over the course of many years. It was common knowledge among ACJ administrators that it was the custom and practice of Health Service Administrators to selectively choose those parts of policy that most suited their needs or preferences and to redefine or ignore requirements they did not agree with or failed to meet. Various Ada County officials also willfully ignored the potential

consequence of those acts by not instituting meaningful oversight strategies or corrective mechanisms to ensure the adequacy of the care being provided. As a result of their indifference, parallel practices were being implemented outside of policy and staff were operating without sufficient oversight and guidance, creating an environment that was sufficiently deficient to deprive inmates of their constitutional right to adequate care, which led to Mr. Munroe's death.

DATA CONSIDERED IN SETTING FORTH THESE OPINIONS

Administrative Documents

Amended Complaint for Damages and Demand for Jury Trial
Plaintiff's Opposition to Defendant's Motion for Summary Judgment
Affidavit of Counsel in Support of Plaintiff's Motion for Summary Judgment
(Including ACJ documents, policies, reports, computer printouts, affidavits and investigation materials)
Letter from National Commission on Correctional Health Care, September 28, 2010
DVD of booking surveillance video of Mr. Johnson and Mr. Munroe.
Defendants 11th Supplemental Response to Plaintiffs' 1st set of Interrogatories
Defendants Supplemental Response to Plaintiffs' 4th Set of Requests for Production
Defendants Expert Witness Disclosure
Defendants' Motion for Summary Judgment and Motion to Strike
Health Services Overview
Exhibits included with Depositions

Depositions

James Johnson
Ryan Donelson
David Welch
Jeffrey Metzner
Jeff Harry
Kate Pape
Candace Bowles
Rita Hogland
Leslie Robertson
Mike Drinkall
Nathan Powell
Gary Raney
Jerry Mullenix
Linda Scown
Brittany Munroe
Jeremy Wroblewski
Jamie Roach
Lisa Farmer
Michael Estess
Shanna Phillips
Michael Brewer
Greg Hogland

EXPERT QUALIFICATIONS

Correctional Employment

My professional qualifications include employment with the Federal Bureau of Prisons for more than 26 years. During that time I attained positions as Chief Psychologist at three federal correctional facilities; a federal jail, a medium security institution, and most notably the U.S. Penitentiary, Leavenworth, Kansas, where I worked for ten years. In those capacities, I worked intensively with a large number of mentally ill and potentially suicidal inmates. I also provided and supervised a wide range of general clinical activities, including psychological and suicide assessments, individual and group therapy, specialized staff training, and a variety of treatment programs.

In 1987, I became Regional Administrator for Psychology Services, a position I held for 14 years before retiring from the Bureau of Prisons in May of 2001. As Psychology Services Administrator, I was responsible for oversight of all psychology services treatment programs in 18 Federal Prisons, including 2 medical referral centers and 5 high security penitentiaries. These treatment programs served the needs of over 22,000 inmates and were provided by 70 doctoral level psychologists and more than 75 specialized treatment staff. In addition, I coordinated the Bureau of Prisons Suicide Prevention Program for 12 years. In that position, I was involved in policy development, program oversight, staff training and consultation on a national and international level.

Consultation - Training - Academic Experience

I am a licensed psychologist who has been in independent practice, and who is currently involved in teaching, training, consulting, and litigation support activities. I have provided consultation or training services to more than 20% of state departments of correction, federal facilities and local agencies, and to the Correctional Services of Canada. I have over 30 years of college teaching experience, on both the graduate and undergraduate level, and have conducted more than 75 professional workshops on suicide risk management and assessment for community and correctional mental health practitioners throughout the United States and in Canada. In addition, I have provided specialized suicide and mental health training for correctional practitioners and administrators for nationally recognized organizations throughout the United States and Canada.

I have authored or co-authored book chapters and more than 35 articles in nationally recognized psychological and correctional publications. I am the author of the book entitled, "How to Identify Suicidal People", a unique guide for assessing suicide risk that was voted one of the best 250 books of the year by the highly respected Doody's Health and Science Book Review Journal when it was published. I was the recipient of the Bureau of Prisons Exemplary Research Award, I am past Chair of the Criminal Justice Section of Division 18, of the American Psychological Association, and am affiliated with several professional organizations.

Litigation Support

While employed by the Federal Bureau of Prisons, I testified as an expert witness in numerous cases for the government concerning issues of criminal competence and responsibility.

Since leaving government service I have provided the following as an expert witness:
I testified as an expert witness for the Federal Bureau of Prisons in an administrative law proceeding involving a complaint of discrimination before the EEOC.

I also provided:
1) a deposition for the plaintiff in a settled case in Federal Court, Estate of DiPace vs. Goord, et al., 308 F. Supp. 2d 274, Docket No.1:02-cv-05418 (S.D.N.Y., July 12, 2002).
2) a deposition in the Estate of Enoch v. Tiernor, et al, E.D. WI Case No 07-C-376.
3) testified as an expert witness in the case of the Estate of Hill vs. Richards, 525 F. Supp. 2d 1076 (W.D.Wis. 2007),Docket No. 3:06-cv-00732-bbc, December 6, 2007.
4) a deposition for the plaintiff in the Estate of Hoagland/Monroe v Ada County Jail, et.al. Case No. CV-OC-2009-01461

I have been retained in the following jail or prison suicide cases:
(a) Estate of Anthony D. Stapleton, et al. vs. County Commissioners of Shawnee County, Kansas, et al., Case No. 05C001207.
(b) Estate of William H. Vaughn, Jr. vs. County Commissioners of Shawnee County, et al., Case No. 05C001566.
(c) Estate of Mark Saunders v. Board of County Commissioners of Ellsworth County, Kansas, et al., 5:2004-cv-04123-sac-kgs filed September 24, 2004.
(d) Estate of Gregory Dean Loya vs. Salt Lake County, et al., Case No. 2:05-cv-133-tc, United States District Court for the District of Utah.
(e) Sheffey et al v. Swanson et al, Northern District of Ohio, Docket Number 5:07-cv-03226-DDD, filed October 19, 2007.
(f) Estate of David J. Dakan v. Lancaster County, et al., Docket No. C 104-142 Nebraska.
(g) Estate of Ware vs. Corrections Corporation of America, W. Dist. Ct.07-2154-JDP-tmp.
(h) Estate of Helvey vs. Prison Health Services, Inc., et al., Docket No.07-C-570.
(i) Estate of Zukowski vs. State of Connecticut Department of Corrections. Case Declined.
(j) Estate of Nicholas Organek vs. CFG Health Systems, LLC, County of Monmouth, et al.
(k) Estate of Lillard vs. Miami County, Kansas, et al., Docket No. o7-CV-318.
(l) Estate of Wargo v. Schuylkill County, et al.U.S.D.C. for theM.D. of Pa.No. 3:06-cv-2156
(m) Estate of Jonathan Filer and Jacqueline Filer v. Johnson County Mental Health Center, Mark Rychlec, LCP, and Arthur R. Ross, Jr., LP
(n) Estate of Stacy K. Grover vs. Muskegon County, et.al. Case No. 1:07-cv-879
(o) Estate of Mark Hong Chul Knuesel, et al. Court File No. 58-CV-08-291
(p) Estate of Benjamin Michael Cantwell et. al, v Cass County e. al.
(q) Estate of Ileta Zank v. Eaton County Jail and Officer Todd Cole.
(r) Estate of Jason Kindler v. Allegheny County Jail, et.al.
(s) estate of Michael Fare v. Harrison County Jail, et. al.
(t) Estate of Luke Ward v. City of Newburgh, New Your Superior Court of NY, CO. of Orange

(u) Estate of Scot Noble Payne v. The GEO Group, Inc., Ron Alford, Randy Tate, et.al.
(v) Estate of Elizabeth Buchanan v. City of Kinloch, et. al. Cause No. 09SLCC03916
I was also retained by the California Attorney General to provide expert opinion in on-going litigation in Coleman v. Schwarzenegger, et.al., involving a class action lawsuit against the California Department of Corrections.

COMPENSATION

I am being compensated at a rate of $300.00 per hour for work reviewing documents and $350.00 per hour for generating a report on this case; $400.00 per hour for providing depositions, affidavits or other court related documents; $1500.00 a day for on-site availability/consultation; $2000.00 per day, or part day, for courtroom testimony; $100.00 per hour for trial and depositions preparation, and all travel related expenses.

Sincerely,

Thomas W. White, Ph.D.

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER**

I. INTRODUCTION

Plaintiff Rita Hoagland (hereinafter "Hoagland") seeks reconsideration of the Court's January 20, 2011 Memorandum Decision and Order (hereinafter "Memorandum") which granted Summary Judgment in favor of Ada County, every Ada County Defendant in his or her official capacity, and every Ada County Defendant in his or her personal capacity, with the exception of James Johnson.

SV

Hoagland now seeks to reinstate her municipal claim against Ada County, her official capacity claims against Gary Raney and Linda Scown, and her official and individual capacity claims against Kate Pape.[1] Based on the arguments below, Hoagland's Motion should be denied.

II. ARGUMENT

A. Hoagland Has Not Met The Standard Necessary for Filing a Motion for Reconsideration.

As this Court is aware, Idaho Rule of Civil Procedure 11(a)(2)(B) allows parties to bring motions for reconsideration of interlocutory orders, but only where new facts or law are presented, along with a more comprehensive presentation of both law and fact. *Coeur d'Alene Mining Co. v. First Nat'l Bank*, 118 Idaho 812, 823 (1990).

In her Memorandum in Support of Plaintiff's Motion for Reconsideration (hereinafter "Reconsideration Memo"), Hoagland fails to raise any new fact or law in support of her position, nor does she provide a more comprehensive presentation of law and fact. Rather, her arguments (along with Dr. White's Supplemental Report)[2] are simply continuations of those previously made in opposition to Defendants' Restated Motion for Summary Judgment.

Since Hoagland has provided nothing new for this Court to consider, her Motion should be denied on that basis alone. Additionally, her Motion should be denied because in a § 1983 case, the plaintiff bears the burden of proof on the constitutional deprivation that underlies the claim, and must come forth with sufficient evidence to create a genuine issue of material fact to avoid summary judgment. *McAllister v. Price*, 615 F.3d 877, 881 (7th Cir. 2010). Hoagland

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[1] Since "official capacity" claims are really claims against the government (Ada County), Hoagland's claims against Raney, Scown and Pape in their official capacities are repetitive.

[2] Concurrently herewith, the Defendants have filed a Motion to Strike the Affidavit of Thomas W. White, Ph.D. in Support of Plaintiff's Motion for Reconsideration of this Court's January 20, 2011 Memorandum Decision and Order. To the extent the Defendants' Motion is not granted, the Defendants will discuss the supplemental report attached to White's Affidavit (hereinafter "Supplemental Report") throughout this brief.

continually fails to meet this burden. After reviewing her Motion, Reconsideration Memo and supporting affidavits, it is clear that Hoagland cannot prove that a constitutional violation occurred in this case. The Court's granting of Defendants' Restated Motion for Summary Judgment (as to the Defendants Hoagland is currently attempting to reinstate) was therefore proper.

B. Hoagland's Attempt to Reinstate Her *Monell* Claims Fails.

As this Court is aware, the United States Supreme Court held that in order for municipal and official capacity defendants to be held liable, a plaintiff must show that, "the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Monell v. Dep't of Social Servs.*, 436 U.S. 658, 690 (1978); *see also*, *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985). Further, local governments "may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's decision making channels." *Monell* at 691. However, that "custom" must be so "persistent and widespread" that it constitutes a "permanent and well settled policy." *Id.*; *Anderson v. Warner*, 451 F.3d 1063, 1070 (9th Cir. 2006). The governmental entity cannot be held liable under a *respondeat superior* theory – rather, the government, under color of some official policy or custom, must *cause* an employee to violate another's constitutional rights. *Monell* at 692 (emphasis added).

Hoagland has previously admitted that the Ada County Jail's policies are constitutional.[3] *See* Third Amended Complaint at 54, ¶ 284. Hoagland is therefore making yet another attempt to convince this Court that the execution of a "custom" at the Jail caused a violation of Bradley

[3] This Court also evaluated the Jail's Standard Operating Procedures and its policy manual, and found them to be constitutionally sound. Memorandum, p. 20.

Munroe's (hereinafter "Munroe") constitutional rights (Hoagland's "direct liability theory" arguments). Hoagland is also again attempting to argue that a lack of training and a lack of supervision caused Munroe to commit suicide (Hoagland's "liability by omission" arguments). However, the arguments set forth by Hoagland continue to miss the mark.

1. Hoagland's Custom or Practice Claims Fail.

In her Reconsideration Memo, Hoagland lists several "customs" by which she says the Jail was operated in 2008. Reconsideration Memo, p. 4-5. Hoagland states that these customs amounted to deliberate indifference towards Munroe and other "similarly situated inmates."[4] These customs seem to be broken down into the following categories: suicide assessments,[5] medication disbursement,[6] training,[7] and a generic "failure to follow policy."

Hoagland repeats that it was "common practice" to perform each custom that she has listed. However, "common practice" is not the standard. Hoagland must prove that each custom was so "persistent and widespread" that it constituted a "permanent and well settled policy." She must further prove that each custom was unconstitutional, and that it was the moving force or

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[4] As this is not a class action lawsuit, any arguments involving "similarly situated inmates" or the "rights of inmates such as Munroe" are irrelevant and out of place.

[5] The Court found a genuine issue of material fact regarding whether Munroe should have been re-assessed by the Jail's Health Services Unit after the completion of the booking process. Memorandum, p. 22. However, the Court found that this was not enough to constitute a series of bad acts, holding that, "there is nothing in the record to indicate that these procedural inconsistencies were so likely to result in an inmate's suicide that the official capacity defendants were on notice of a problem." *Id.*

[6] The Court also noted that regarding Munroe, the record does not reflect whether the Jail fully complied with its policy that most inmates receive a two (2) week supply of their medications upon release, and found that there is a genuine issue of material fact as to whether Munroe received his medications upon release. Memorandum, p. 22. However, the Court found that this does not, "create a series of bad acts which was so obvious that it must have put ACJ policy-making officials on notice that the Jail's suicide prevention policies were inadequate." *Id.*

[7] Defendants' arguments regarding Hoagland's training allegations are more fully set forth in section II.B.2 of this brief.

causation behind Munroe's death. She must do so with actual evidence – general conclusory statements are not enough. Hoagland, however, is unable meet this burden.

Regarding the suicide assessments, Hoagland alleges that it was common practice to conduct suicide assessments that were too short. *Id.*, p. 4. This is a misstatement, since none of the Defendants or witnesses deposed by Hoagland testified that the suicide assessments conducted at the Ada County Jail were improper.[8] As such, Hoagland has not shown an official persistent and widespread custom of conducting unconstitutional suicide assessments, and has not shown a causal link to Munroe's suicide.

Hoagland also alleges that it was common practice not to fully perform or document suicide assessments. *Id.* Again, Hoagland offers no proof that there is a persistent and widespread custom of performing unconstitutional documentation of suicide assessments (to the extent there could be "unconstitutional documentation"). Further, and perhaps more importantly, no correlation has been made between chart notes and Munroe's suicide. Documentation is even less relevant in this case, since the same social worker (Jim Johnson) conducted both of Munroe's assessments, and Johnson clearly remembers and charted Munroe's first assessment that he conducted in September of 2008. Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep., p. 216, LL. 22-25, pp. 217 – 220; p. 221, LL. 1-2.).

Hoagland next complains that it was common practice to conduct suicide assessments in the presence of security officers. Reconsideration Memo, p. 4. Once again, Hoagland offers no evidence that there is a persistent and widespread custom, or that this is in and of itself

[8] In fact, Johnson's first interview of Munroe was conducted in the Health Services Unit clinic, and it lasted approximately fifteen (15) minutes. Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep., p. 128, LL. 23-25; p. 129, LL. 1-4, 8-25; p. 130, L. 1). Further, Johnson testified that in general, suicide assessments at the Jail can last from thirty (30) seconds to one (1) hour. *Id.*, p. 98, LL. 6-25; p. 99, LL.1-7.

unconstitutional. In fact, Johnson testified that he conducted the first assessment of Munroe in the privacy of the Health Services Unit. Affidavit of Counsel (filed February 11, 2011), Ex. F (Johnson Dep. p. 129, L. 10-17; p. 217, LL. 5–8). Johnson explained that jails are similar to emergency rooms in that there cannot be complete privacy in a secure facility like a jail. *Id.*, p. 151, L. 3-25; p. 152, LL. 1-25; p. 153, LL. 1-25; p. 154, LL.1-25; p. 155, LL. 1-8. Further, there is no constitutional requirement that jail suicide assessments must be conducted in complete privacy.

Hoagland also alleges it was common practice to let booking deputies make decisions regarding whether to contact medical staff. Reconsideration Memo, p. 4. However, she has failed to show how this could be unconstitutional. In actuality, the booking deputies *did* call medical staff the morning of September 29, 2008, and Munroe was seen by a social worker.

Hoagland next complains that it was common practice not to perform mental health assessments.[9] *Id.*, p. 5. While there is testimony that the Jail was struggling with completing the health assessments within fourteen (14) days (Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 11, LL. 6-12)), in this case, Munroe did receive a mental health assessment by Johnson within four (4) days of his August 28, 2008 incarceration,[10] and had three (3) other appointments, one (1) with a registered nurse, and two (2) with a physician's assistant, on the 11th, 12th, and 14th of September 2008. Pape Aff. filed July 1, 2010, ¶¶ 6-8. While Munroe did not technically receive a formal 14-day health assessment, he did see both medical and mental health providers, which provided the same services he would have received had he been given a 14-day health assessment. Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 39,

[9] Defendants assume Hoagland is referring to the 14-day health assessments.

[10] This was Munroe's only incarceration at the Ada County Jail lasting long enough to potentially trigger a formal 14-day health assessment. Munroe's three (3) other incarcerations lasted two (2) to three (3) days each.

LL. 11 – 25). Therefore, Hoagland cannot show that there was a constitutional violation, let alone that this was the moving force behind Munroe's suicide.[11]

Hoagland next asserts that it was custom to take at face value an inmate's statement regarding his or her mental health when being assessed. Reconsideration Memo, p. 5. It is difficult to address such an assertion since accepting at face value an inmate's statement regarding his or her mental health or refusal of treatment falls under clinical judgment, and is not a policy or custom. Here, Johnson did testify regarding the importance of allowing an inmate to refuse mental health services if that inmate was competent to do so. Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep., p. 66, LL. 21-25; p. 67, LL. 1-4; p. 103, LL. 3-8). Johnson believed Munroe was competent to deny medical help and Johnson did document this fact by writing in his chart that Munroe refused treatment. *Id.*, p. 107, LL. 6-25; p. 108, LL. 1-25; p. 109, LL. 1-2.

Regarding medication disbursement, Hoagland alleges that it was common practice to handle medication disbursement in a "haphazard" manner, and that it could not be proven whether an inmate received his medication while in the Jail or at the time of release. Reconsideration Memo, p. 4. As this Court (and Hoagland) is aware, there is clear evidence that Munroe received his medication daily, from a nurse, while in the Jail. The allegation concerning the receipt of medications upon release, though, is once again not proven by Hoagland. Even though the record is unclear whether Munroe received his medications upon release from the Jail, Hoagland has failed to show a *custom* of not giving inmates medication at discharge. Further, there is no evidence from Hoagland's expert witnesses that a lack of medications at discharge lead to Munroe's suicide.

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[11] Further, the lack of a formal 14-day health assessment occurred during Munroe's prior incarceration, and not during the incarceration in which he committed suicide.

Regarding training, Hoagland alleges it was common practice not to require the medical staff to complete forty (40) hours of training, and not to require annual suicide risk reduction training. Reconsideration Memo, p. 5. These allegations seem to point just to Johnson. However, that a *particular defendant* may be inadequately trained will not alone suffice to create liability for Ada County. *See Canton v. Harris*, 489 U.S. 378, 390-91 (1989). A complete reading of the record indicates that the staff at the Ada County Jail is in fact well trained. For example, Sheriff Raney testified at his deposition regarding a number of deputies and their extensive training records, including the eight (8) hour session from jail suicide expert Lindsay Hayes held in February 2008 (only seven (7) months before Munroe's suicide). Aff. of Counsel (filed February 25, 2011), Ex. B (Raney Dep., p. 127 – 151).

Regarding Hoagland's general allegation that the Jail ignores written policies that Pape disagrees with,[12] a general "failure to follow policy" is not a "custom" in and of itself. A fair reading of Pape's testimony is encapsulated on pages 33 and 34 of her deposition transcript, where she describes her role as constantly improving the Health Services Unit at the Jail. *Id.*, Ex. A (Pape Dep., p. 33-34). As she considered and rewrote the policies, she kept and followed those that were good. *Id.*, p. 33, LL. 16-22. As in any good system, she changed and improved the practice before she wrote the new policy, knowing it was more important to deliver the best patient care immediately, with the policy re-writes to follow. *Id.*, p. 33, LL. 16-25; p. 34, LL. 1-4; p. 218, LL. 11-25.

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[12] Hoagland ignores the well thought out reasoning that in certain instances, it is prudent to follow best practices instead of written policy. For example, Pape explained that the Jail's policy is to have deputies hand out medications to the inmates. Upon reflection, Pape thought it better to have nurses actually hand out the medications, and changed this practice before the written policy was officially changed. Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 191, LL 13-25; p. 192, LL. 1-6).

As Hoagland still cannot provide evidence of a widespread and persistent unconstitutional custom which caused Munroe's suicide, the dismissal of Ada County and all of the official capacity Defendants remains appropriate.

2. Hoagland's Inadequate Training Claims Fail.

The U.S. Supreme Court has held that there are limited circumstances in which a "failure to train" allegation can be the basis for municipal liability under § 1983. *Canton v. Harris*, 489 U.S. 378, 387 (1989).

> Only where a municipality's failure to train its employees in a relevant respect evidences a "deliberate indifference" to the rights of its inhabitants can such a shortcoming be properly thought of as a city "policy or custom" that is actionable under § 1983. . . ."[M]unicipal liability under § 1983 attaches where-and only where-a deliberate choice to follow a course of action is made from among various alternatives" by city policymakers. . . .Only where a failure to train reflects a "deliberate" or "conscious" choice by a municipality-a "policy" as defined by our prior cases-can a city be liable for such a failure under § 1983.

Id. at 389 (citations omitted).

The Supreme Court went on to note that the question is whether the specific training program is adequate, and if not, whether the inadequate training program can "justifiably be said to represent 'city policy.'" *Id.* at 390. If the "need for more or different training is so obvious,[13] and the inadequacy so likely to result in the violation of constitutional rights," then the

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[13] In *Canton*, the Supreme Court gave an example of a situation in which the need for training would be "so obvious" that the failure to do so could constitute deliberate indifference:

> For example, city policymakers know to a moral certainty that their police officers will be required to arrest fleeing felons. The city has armed its officers with firearms, in part to allow them to accomplish this task. Thus, the need to train officers in the constitutional limitations on the use of force . . . can be said to be "so obvious" that failure to do so could properly be characterized as "deliberate indifference" to constitutional rights.

Canton v. Harris, 489 U.S. at 390.

policymakers can reasonably be said to have been deliberately indifferent[14] to the need. *Id.* However, a plaintiff must also prove that the deficiency in training actually caused the defendants' deliberate indifference. *Id.* at 391.

> In order to prove that a municipal entity acted with "deliberate indifference," a plaintiff must show that a governmental entity was *on notice* that its training program is inadequate as a result of past similar incidents of constitutional violations committed by its inadequately trained employees. That notice could take many forms, ranging from lawsuits to mere informal complaints.

Mueller v. Auker, 2010 WL 2557777 (D. Idaho) (emphasis added).

Hoagland states in her Reconsideration Memo that, "a genuine issue of material fact exists as to whether the medical staff,[15] including Defendant Johnson, received constitutionally adequate training on the operation of the jail." Reconsideration Memo, p. 10. However, that a *particular defendant* may be inadequately trained will not alone suffice to fasten liability to Ada County. *See Canton*, 489 U.S. at 390-91. There is also no evidence that a lack of training caused Johnson to be deliberately indifferent towards Munroe, thus causing his suicide. As this Court recognized, "a lack of training does not appear to be responsible for Munroe's suicide." Memorandum, p. 22. Hoagland has failed to present new facts that would alter this conclusion.

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[14] Hoagland erroneously argues that in *Monell* cases, a plaintiff simply needs to show gross negligence on the part of policymakers regarding the training of its employees. Reconsideration Memo, p. 18. Hoagland cites to a string of outdated cases from the 1970's and 1980's in support of this contention. In *Canton*, the U.S. Supreme Court discussed that some courts have held that a showing of gross negligence regarding a municipality's failure to train its employees is sufficient under § 1983. *Canton*, p. 389, n. 7. However, the *Canton* Court went on to say that the more common rule is that a municipality must have been deliberately indifferent, and in fact went on to adopt that standard. *Id.*

[15] Since this Court dismissed all of the Defendants from this lawsuit (with the exception of Johnson), and since Hoagland has not moved for reconsideration on any of the individual capacity Defendants except for Kate Pape, Hoagland's arguments regarding the training of "the medical staff" is completely irrelevant, leaving Johnson as the sole focus of the analysis.

Hoagland cites to a string of training requirements that Johnson allegedly did not receive, and policies that Johnson was not aware of.[16] Reconsideration Memo, p. 10-12. However, Hoagland offers no evidence that had Johnson received the training,[17] or had he been aware of such policies, that Munroe would not have taken his own life.[18] Certainly, the fact that Johnson did not fully understand the terminology and layout of the Jail was not "so obvious" as to result in Pape, Scown, Raney or Ada County being deliberately indifferent to Johnson's training need. Further, even if Johnson had known that Munroe would have been housed alone, Johnson testified that he did not believe that he would have made any major adjustment or a change in his assessment. Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep., p. 247, LL. 1-2).

Hoagland also states that a jury could conclude that Johnson did not receive or read the policies regarding Jail operations.[19] Reconsideration Memo, p. 11. Assuming for argument's sake that these allegations are true, the fact that Johnson chose not to read the operations policies

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[16] The majority of the training requirements and policies referenced by Hoagland are in no way causally connected to Munroe's suicide. For example, Hoagland states that Johnson was "unaware of the policy requiring employees to obtain a signed refusal of treatment form, . . . was unaware that the credentialing policy applied to him, . . . was unfamiliar with the policies governing when a deputy is required to refer an inmate to the social workers for a suicide assessment, . . . was unaware that classifications could not place an inmate who had been flagged as having a suicide history . . . in a single inmate cell without obtaining approval from the medical unit, . . . [and] was unaware that, as a medical staff employee, he had access to the security staff records. . . ." Reconsideration Memo, pp. 10-11.

[17] It is important to keep in mind that when hired by Ada County, Johnson was a highly educated professional with nearly thirty (30) years of experience in the field of social work, and who had conducted thousands of suicide assessments throughout his professional career. Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep., p. 48, LL. 6-25; p. 49, LL. 1-25; p. 50, LL. 1-25; p. 51, L. 1).

[18] Hoagland's conclusory statement that, "Formal training would have insured that Defendant Johnson knew PC was a single cell environment and that he has access to the JICS records," is not enough to meet her burden, and is highly speculative. Reconsideration Memo, p. 13.

[19] Throughout her Reconsideration Memo, Hoagland continues to make arguments involving NCCHC standards, as does White in his Supplemental Report. This Court has explicitly held that NCCHC standards are not constitutional standards. All such arguments regarding NCCHC should therefore be disregarded, and the Defendants consequently will not address them in this brief.

in no way imputes liability on Ada County or the official capacity Defendants. Further, Hoagland has no evidence that there was an ongoing custom to not provide Health Services Unit employees with Jail operations policies.

Hoagland weakly attempts to make that argument by emphasizing the "policy environment" created by Kate Pape.[20] *Id.*, pp. 13-15. Hoagland states that when Pape disagreed with written policies, and with policies that were "cumbersome," she abandoned those in order to follow "best practices." However, what Hoagland fails to do is provide this Court with Pape's reasonable explanation for doing so:

> So I think whereas the standard operating procedure and policy was good, and made sense, and was appropriate, we followed it. Where it wasn't, we didn't. Which I know was not ideal. But any system, if it is a good system, is a system that is changing and constantly improving. And sometimes – in my opinion – to ensure that the practice is appropriate, and the policy catches up, is important. What we did not want to do was institute a whole new standard operating procedure manual that did not reflect what we were doing at all. We needed to ensure that the practice we were conducting, and the services we were providing, were appropriate.
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> . . . .
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> In my opinion, and I don't remember it very detailed, but, in my opinion, the suicide precaution policy was very cumbersome. It was very lengthy. Very cumbersome. And I don't think very user friendly. So when we updated it we did change that policy. Or the standard operating procedure.
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> . . . .
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> In my opinion, it was so detailed out that it would be almost impossible for any person to follow every single detailed piece of that. To give my analogy, it would be – if I needed to go use your bathroom, and I know where your bathroom is, but the policy says I can only step on the red tiles, and I need to tap the wall twice on my way to the bathroom, and if I step on a blue I can't get there, it's not helpful. It is more of [an] obstacle in getting there. And so we needed a policy that still

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[20] On the one hand, Hoagland states that Pape made a conscious decision to abandon certain policies that she did not agree with, then on the other hand states that she did not communicate that information to Johnson. Hoagland goes on to say that, "there does not appear to be any formal mechanism by which [Pape] conveyed to her staff which policies would be followed and which would be ignored." Reconsideration Memo, pp. 13-14. Query how a governmental official can create a "custom or practice" which deviates from written policy if that official does not convey the deviations to her staff?

met NCCHC guidelines, and still met best practices, and maybe didn't require that I tap on the wall twice or step on the blue tiles.

Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 33, LL. 16-25; p. 34, LL. 9-15, 19-25; p. 35, LL. 1-7).

Regarding the specific portions of the suicide prevention policy that were cumbersome in Pape's opinion, the following exchange between Hoagland's counsel and Pape took place:

> Q. If you turn to the next page. There is [sic] several categories. And it kind of runs onto the next page. Low risk, moderate risk, and high-risk. Under "Low Risk" you would agree that those are the appropriate factors for the social worker to consider in doing a suicide assessment at the jail?
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> . . . .
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> A. . . . . The low risk, moderate risk, and high risk are actually the pieces we did not include in our updated standard operating procedures. In my opinion, they are training points rather than policy points. They are guidelines. Rather than something, in my opinion, should be in a concrete policy and procedure. The high risk says probably a real and immediate risk of suicide. We get at ton of people who are males under the age of 25, you know, who meet some of these criteria who are no way a risk of suicide. So, my opinion, this is that piece where there are blue things on the wall, and red things on the floor, that may distract you from what you need to look at. So, in my opinion, these pieces are pieces that are a distraction. They are helpful and are training topics. But I don't believe that they belong in a standard operating procedure.
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> . . . .
>
> Q. Yeah. And I understand that you don't totally agree with this three-tier part being in the policy. But what I'm focused on in the question is, it kind of outlines some precautions you had in place for people who had been identified as suicide risks?
> A. And to clarify. I don't not agree with that three-tier. I think you absolutely need to have some functioning practice in terms of the readily identifiable orange risk, or yellow risk, or red risk. The piece that I wasn't comfortable having in our policy and procedure were the training items that identified the factors that made up low risk, moderate risk, and high risk. So defining what orange, red or yellow is, and how we treat those folks in our facility, I'm uncomfortable with.
> Q. So the primary part of the suicide prevention policy that was cumbersome was this high risk, medium risk, low-risk portion that you have been talking about?
> A. Correct. But not because it is not important. But because I don't believe it belongs in the standard operating procedure; correct.

Id., p. 41, LL. 11-17, 22-25; p. 42, LL. 1-15; p. 43, LL, 8-25; p. 44, LL. 1-7.

Certainly, the training received by Johnson, even if assumed to be lacking (for Hoagland's benefit), cannot justifiably be said to represent "County policy," as Hoagland has offered no evidence that this perceived lack of training applied to anyone else but Johnson. And, as the U.S. Supreme Court instructed, that a *particular defendant* may be inadequately trained will not alone suffice to equate to municipal liability. *See Canton*, 489 U.S. at 390-91. Moreover, and for the same reasons, any need for more or different training cannot be said to have been "so obvious" as to have put Ada County on notice that constitutional rights may be violated.[21]

Regarding these alleged policy deviations, Hoagland cites to her expert witness, Dr. Thomas White, at length. However, even White's statements do not amount to deliberate indifference:

> . . . one must ask if Mr. Johnson was simply ignorant about procedure, unfamiliar with the standard operations of his department, inadequately trained to perform his duties, received inadequate supervision, or if a combination of these factors existed at ACJ that affected his ability to provide adequate care for Mr. Munroe.

Reconsideration Memo, p. 14. While perhaps reaching the negligence standard, none of these "factors" amount to deliberate indifference on the part of Ada County, Raney, Scown or Pape.

It cannot be said that Raney, Scown and Pape were deliberately indifferent to Johnson's training need. Nor can it be said that the need to train a master's level social worker with nearly thirty (30) years of experience, including jail mental health experience, was so obvious that for

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[21] As this Court noted, there is no evidence that other pretrial detainees or inmates had recently or repeatedly committed suicide in situations similar to Munroe. Memorandum, p. 22. In fact, Sheriff Raney testified at his deposition that only one (1) other inmate successfully committed suicide in the past five (5) years. Aff. of Counsel (filed February 25, 2011), Ex. B (Raney Dep., p. 7, LL. 4-19).

Raney, Scown and Pape to disregard that need would be deliberately indifferent to Munroe.[22] Hoagland's *Monell* claims based on inadequate training must once again fail.

3. Hoagland's "Lack Of Supervision And Discipline" Claims Fail.

Hoagland cites no case law in support of her position that a lack of supervision and discipline[23] of Johnson are grounds for holding Ada County, Raney, Scown and Pape liable in this case. Rather, she makes conclusory statements and relies exclusively on White's Supplemental Report. Hoagland states that, "An environment existed at the Ada County Jail where there was little supervision and even less discipline of employees who violated written policies." *Id.*, p. 15. However, she fails to cite to the record in support of this general allegation. Rather, she cites to White's Supplemental Report, which also fails to cite to the record, and also makes general, conclusory statements.[24]

Further, Hoagland fails to make the required causal link between the alleged failure to follow policy and Munroe's suicide. And, as argued above, the failure to follow policy in and of itself does not create a widespread unconstitutional custom or practice. Although, that is exactly what White is contending.[25] This is clearly evident from his quotation on page 16 of Hoagland's Reconsideration Memo:

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[22] In fact, Pape testified that she would have expected Johnson to understand the term "PC," since that is a pretty common term used at the Jail. Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 71, LL. 15-24).

[23] Hoagland touts that Johnson, "was never disciplined for anything during his eighteen months at the jail," "was never disciplined for any of his actions involving the death of Mr. Munroe," and in fact received a 5% pay raise after Munroe's suicide. Reconsideration Memo, pp. 17-18. However, these arguments are nonsensical, since the pay raise and non-discipline occurred *after* Munroe died. Therefore, they cannot be the cause or moving force behind Munroe's suicide.

[24] Interestingly, White's Supplemental Report reads more like a memorandum in support of Hoagland's positions, complete with arguments (minus citations to the record or law), as opposed to an expert witness report.

[25] White simply refuses to see the forest for the trees.

> There is ample evidence from the record that they engaged in a pattern and practice of intentional policy noncompliance over the course of many years.[26] It was common knowledge among ACJ administrators that it was the custom and practice of Health Service Administrators to selectively choose those parts of policy that most suited their needs or preferences and to redefine or ignore requirements they did not agree with or failed to meet. Various Ada County officials also willfully ignored the potential consequence of those acts by not instituting meaningful oversight strategies or corrective mechanisms to ensure the adequacy of the care being provided. As a result of their indifference, parallel practices were being implemented outside of policy and staff were operating without sufficient oversight and guidance, creating an environment that was sufficiently deficient to deprive inmates of their constitutional rights to adequate care, which led to Mr. Munroe's death.

Id., p. 16.

White seems to offer that one must follow policy for policy's sake. However, that is not the constitutional standard. Hoagland must show that there was an unconstitutional "custom" at the Ada County Jail, which was so "persistent and widespread" that it constitutes a "permanent and well settled policy." Hoagland, of course, cannot do this. Nor can she prove that not following policy *caused* Munroe to take his own life.

Hoagland states that one of the more obvious examples of the Jail not following policy is that the Jail did not have a full-time physician,[27] and again cites to White. White discusses Dr. Michael Estess, the Jail's contract psychiatrist, and refers to Dr. Estess' deposition in support of his contention that, "it is difficult to conclude that there is or was any professional designated to provide day-to-day oversight for the mental health operation."[28] *Id.,* p. 17. However, it is

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[26] There is absolutely *nothing* in the record that supports this allegation, which may explain why the record is not cited to by White.

[27] There is no constitutional requirement that a jail employ a full time physician.

[28] White ignores the fact that Dr. Estess was available to the Health Services Unit staff twenty-four (24) hours per day, seven (7) days per week. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep. p. 7, LL. 4-22). White also ignores the fact that Kate Pape, the Administrator of the Health Services Unit, is a licensed MSW. Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 194, LL. 6-8; p. 187, LL 7-14).

important for the Court to know that there are many factual inaccuracies in White's Supplemental Report.[29]

Two of the most glaring errors center around Dr. Estess. The first is White's statement that Dr. Estess did not remember anything about discussing Munroe's case with Johnson, except that it happened. *Id.* A review of Dr. Estess' deposition transcript shows that this statement is just plain wrong. Dr. Estess provided nine (9) pages of detailed testimony regarding his conversation with Johnson. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep. pp. 61-70). Dr. Estess talked to Johnson at length about Johnson's assessment of Munroe, and challenged Johnson on everything he did. *Id.*, p. 65, LL. 2-11, 20. As the Jail psychiatrist, and in his role as a consultant and supervisor, Dr. Estess wanted to make sure that Johnson had engaged in deliberate consideration, and concluded that he had. *Id.*, p. 64, LL. 14-15; p. 65, LL. 14-25; p. 66, LL. 1-25. In Dr. Estess' words: "I grilled him a lot about what he thought about it. How he thought about it. Why he did what he did. And did he consider it. And it is my perspective that he considered it." *Id.*, p. 67, LL. 15-19. Dr. Estess characterized Johnson as a very sensitive and intellectually bright fellow – and Dr. Estess understood that Johnson's decision in this case was based on Johnson's clinical judgment. *Id.*, p. 69, LL. 18-20. Dr. Estess' testimony clearly disproves Hoagland's assertion that, "all discussions with Defendant Johnson relating to his actions involving Mr. Munroe were supportive, and not one statement was made that was critical of his actions in any respect." Reconsideration Memo, p. 19.

The second is White's statement that in Dr. Estess' deposition, "he made it very clear that he did not see himself as anything more than a consultant with no supervisory or oversight

[29] For purposes of this Response Brief, the Defendants will only highlight a few of the glaring errors. White's Supplemental Report is discussed in greater detail in Defendants' Motion to Strike, filed contemporaneously herewith.

responsibility." *Id.*, pp. 16-17. Once again, this statement is incorrect. Dr. Estess explained that he provides, "competent medical-psychiatric supervision, consultation, and treatment" at the Jail. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep., p. 6, LL. 16-18). Regarding Dr. Estess' supervisory role, the following exchange took place between Hoagland's counsel and Dr. Estess:

> Q. . . . You had mentioned supervision at the jail. What were your responsibilities in terms of supervising the staff there in the jail?
>
> A. Whatever I thought was reasonable or appropriate. . . . And I always took it as my responsibility to make judgments about anybody that provided mental health services. Judgments about their assessments. Their perspective. Their reasoning. Their thinking. Their recommendations about whatever. . . . I saw supervision as just a willingness to interact with anybody that delivered mental health services.

Id., p. 15, LL 4–25; p. 26, LL 1-4.

Dr. Estess views his charge pursuant to his contract:

> To evaluate clinical competence on the part of the people that I work with....Then I view it as my responsibility to communicate that to administrative staff who are responsible for hiring these people. And being responsible for them. So I take it upon myself to make judgment on a regular basis about the clinical competence of the people that I work with.

Id.., p. 29. LL 2-14.

Dr. Estess clearly sees his role as much more than a consultant with no supervisory or oversight responsibility, as White would have it.

Based on the above, Hoagland's *Monell* claims based on supervision and discipline must also fail.

C. Hoagland's Attempt to Reinstate Her Individual Capacity Claim Against Defendant Pape Fails.

In *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998), the Ninth Circuit explained that: "A plaintiff must allege facts, not simply conclusions, that show that an individual was

personally involved in the deprivation of his civil rights. Liability under § 1983 must be based on the personal involvement of the defendant."

As this Court knows, Pape had absolutely no contact with Munroe during any of his incarcerations at the Ada County Jail. Hoagland seeks to reinstate Pape as an individual capacity defendant based solely on her status as a supervisor and policy maker.

This approach is not appropriate in the § 1983 context. As previously noted above, *respondeat superior* is not a valid method of attaching liability in a § 1983 action. As such, Hoagland cannot be allowed to attribute the actions of others (including subordinates) to Pape. Furthermore, as noted in *Barren*, to survive summary judgment Hoagland must set forth specific personal actions by Pape that resulted in Munroe's death. Hoagland presents no new facts that would justify reinstating Pape as a defendant in her individual capacity.

1. Pape Is Entitled To Qualified Immunity.

In *Malley v. Briggs*, 475 U.S. 335, 341 (1986), the U.S. Supreme Court explained that qualified immunity immunizes "all but the plainly incompetent or those who knowingly violate the law." These remarks are echoed by other Supreme Court cases finding that under qualified immunity, a government actor will be protected from suit when he or "she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances . . ." *Brosseau v. Haugen,* 543 U.S. 194, 198 (2004); *see also, Saucier v. Katz,* 533 U.S. 194, 206 (2001). The standard is an objective one that leaves "ample room for mistaken judgments . . ." *Malley* at 343.

The Idaho Supreme Court has further defined the application of qualified immunity in Idaho cases involving federal civil rights claims, such as the current action. In *Nation v. State,* 144 Idaho 177 (2007), the Idaho Supreme Court instructed that:

> The contours of qualified immunity are the same under both Idaho and Federal law; generally government officials performing discretionary functions are shielded from civil liability as long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow,* 457 U.S. at 818-19, 102 S.Ct. at 2738-39, 73 L.Ed.2d at 410-11; *Lubcke v. Boise City/Ada County Housing Authority,* 124 Idaho 450, 462-63, 860 P.2d 653, 665-66 (1993). The issue of whether an official should have known that he or she acted unlawfully is a question of law. *Saucier v. Katz,* 533 U.S. 194, 197, 121 S.Ct. 2151, 2154, 150 L.Ed.2d 272, 278-79 (2001); *Lubcke,* 124 Idaho at 462, 860 P.2d at 665.

Nation at 186-87.

Hoagland has forwarded no new evidence to support a claim that Pape violated Munroe's constitutional rights. Making the conclusory statement that Pape "created a custom of not following written policy" is not sufficient. Furthermore, Hoagland has made no new legal argument that the law was clearly established. As such, Pape continues to be entitled to qualified immunity in this case.

2. Additionally, Hoagland Raises No Genuine Issue of Material Fact That Precludes Summary Judgment.

As this Court noted in its Memorandum, Pape must have known of a "pattern of suicide or a pattern of problems with policy enforcement by subordinates which she then condoned or to which she acquiesced." Memorandum, p. 40. The Court found that there is nothing in the record to support this allegation. *Id.*

Hoagland presents no new facts that would require the Court to change its finding. As such, granting summary judgment in favor of Pape remains proper.

III. CONCLUSION

Hoagland has not met the standard set by Idaho Rule of Civil Procedure 11(a)(2)(B) regarding a motion for reconsideration. She has not presented new facts or law, nor does she

provide a more comprehensive presentation of both law and fact. *Coeur d'Alene Mining Co. v. First Nat'l Bank*, 118 Idaho 812, 823 (1990).

Rather, her arguments are simply continuations of those previously made in opposition to Defendants' Restated Motion for Summary Judgment. Since Hoagland has provided nothing new for this Court to consider, her Motion should be denied. Additionally, Hoagland bears the burden of proof on the constitutional deprivation that underlies the claim, and must come forth with sufficient evidence to create a genuine issue of material fact to avoid summary judgment. *McAllister v. Price*, 615 F.3d 877, 881 (7th Cir. 2010). It remains clear that Hoagland cannot prove that a constitutional violation occurred in this case.

The Court's granting of Defendants' Restated Motion for Summary Judgment regarding twenty-four (24) of the twenty-five (25) Defendants was therefore proper. The Defendants respectfully request that the Court deny Hoagland's Motion for Reconsideration in its entirety.

DATED this 25th day of February 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: Sherry A. Morgan
Sherry A. Morgan
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February 2011, I served a true and correct copy of the foregoing DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

__X__ Hand Delivery
_____ U.S. Mail
_____ Certified Mail
_____ Facsimile (208) 489-8988

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney
RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **AFFIDAVIT OF COUNSEL IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION**

STATE OF IDAHO)
) ss.
County of Ada)

SHERRY A. MORGAN being first duly sworn upon oath, states as follows:

1. That your Affiant is a counsel of record for Ada County Defendants in the above-entitled matter.

2. That on Wednesday, January 5, 2011, at approximately 9:00 a.m., the deposition of Kate Pape was taken in this matter.

3. That attached to your Affiant's Affidavit as Exhibit A is true and correct copy of the transcript of Kate Pape's deposition.

4. That on Friday, December 3, 2010, at approximately 10:00 a.m., the deposition of Gary Raney was taken in this matter.

5. That attached to your Affiant's Affidavit as Exhibit B is a true and correct copy of the transcript of Gary Raney's deposition.

6. That on Thursday, the 18th day of November 2010, the deposition of Thomas White, Ph.D. was taken in this matter.

7. That attached to your Affiant's Affidavit as Exhibit C are true and correct excerpts of the transcript of Thomas White's deposition.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Sherry A. Morgan
Senior Deputy Prosecuting Attorney

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN to before me this 25th day of February 2011.

MONICA M. DEVOUDE NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Commission Expires 5/20/2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February 2011, I served a true and correct copy of the foregoing AFFIDAVIT OF COUNSEL IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR RECONSIDERATION to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
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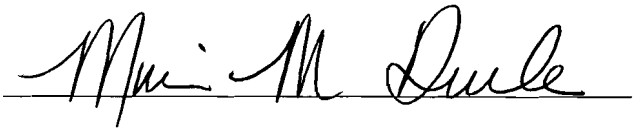

EXHIBIT A

KATE PAPE DEPOSITION TRANSCRIPT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

COPY

EXHIBITS BOUND SEPARATELY

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,	)	Case No. CV-OC-2009-01461
Plaintiffs,	)	
vs.	)	
ADA COUNTY, a political subdivision of the State of Idaho; et al.,	)	
Defendants.	)	

DEPOSITION OF KATE PAPE

JANUARY 5, 2011

REPORTED BY:

MONICA M. ARCHULETA, CSR NO. 471

NOTARY PUBLIC

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and)
in her capacity as Personal)
Representative of the ESTATE OF)
BRADLEY MUNROE,) Case No.
Plaintiffs,) CV-OC-2009-01461
vs.)
ADA COUNTY, a political)
subdivision of the State of)
Idaho; et al.,)
Defendants.)

DEPOSITION OF KATE PAPE
JANUARY 5, 2011

REPORTED BY:
MONICA M. ARCHULETA, CSR NO. 471
NOTARY PUBLIC

THE DEPOSITION OF KATE PAPE was taken on behalf of the Plaintiffs at the offices of Jones & Swartz, 1673 W. Shoreline Drive, Suite 200, Boise, Idaho, commencing at 9:00 a.m. on January 5, 2011, before Monica M. Archuleta, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES:
For the Plaintiffs:
JONES & SWARTZ, PLLC
BY: MR. DARWIN L. OVERSON
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, Idaho 83707-7808

For the Defendants:
ADA COUNTY PROSECUTOR'S OFFICE
BY: MR. JAMES K. DICKINSON
MS. SHERRY A. MORGAN
200 W. Front Street, Room 3191
Boise, Idaho 83702

APPEARANCES:
For the Ada County Sheriff's Office:
CHIEF LEGAL ADVISOR
BY: MR. JOSEPH D. MALLET
7200 Barrister Drive
Boise, Idaho 83704

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EXHIBITS PAGE

KATE PAPE,
first duly sworn to tell the truth relating to said cause, testified as follows:

EXAMINATION
QUESTIONS BY MR. OVERSON:

Q. Your name is Kate Pape?
A. Correct. My legal name is Katherine.
Q. Thank you. And, Katherine, have you had your deposition taken before?
A. Once. When I was a senior in high school.
Q. What kind of case was that?
A. I was in a car that was hit by a tow truck.
Q. So personal injury?
A. Yes.
Q. You have never had your deposition taken in the capacity of an employee of Ada County?
A. No.
Q. And you are employed with Ada County?
A. Yes.
Q. In the jail?
A. Yes.

Q. My understanding is that you're employed as the administrator of the Ada County Jail Health Services Unit; is that correct?
A. Correct.
Q. How long have you been in that capacity?
A. Three years now.
Q. Let me kind of back up here and just kind of go over some ground rules for depositions just to make everything go a little bit smoother. We have a court reporter here. She is writing everything down as we speak. So it is important that we not talk over the top of each other, because she can really only record one of us at a time. There is a tendency to start an answer before the question is completed. Or for me to ask a question before you are done answering. So, if you would, let's work together. You can correct me if I start talking over the top of you and vice versa. Okay?
A. Okay.
Q. All right. Head nods don't get on the record very well. Head shakes. Same thing. So we need a verbal answer. And if you hear me say, "Is that a yes?" I'm not trying to be rude. I'm

just trying to make sure we get your answer on the record. If at any time I ask a question that is confusing to you, just tell me. I'll try to rephrase it so it is a little bit clearer.
A. Okay.
Q. Because if you answer I have to assume that you understood the question. Periodically, your attorney may have an objection. Usually that catches the deponent off guard. You are the deponent. And it causes some confusion. So unless he instructs you not to answer, generally that is just something for you to not worry about. He'll tell you if you need to.
A. Okay.
Q. If you need a break at any time feel free to say so. It is not a marathon.
A. Okay.
Q. So when did you take over the position of administrator of the Health Services Unit?
A. I believe it was January 20, 2008. I know it wasn't until late January 2008.
Q. And who had that position prior to you?
A. Derek Voss. V-o-s-s.
Q. And do you know who had it before him?
A. Sharon Mosley was the previous nurse

manager of health services. When Derek Voss came in he changed the structure of the management team. And so when Sharon had the position, I don't believe the position was called health administrator. I know that's detailed, but.

Q. That's fine. I appreciate that. And in that capacity what are your duties?

A. The short version is to help insure that the delivery of health care services are appropriate. That I support my team so that they can provide the medical, mental health, and dental services to our patients in a way that follows our guidelines. That fall within community standards. Meaning, our jail standards, as well.

Q. Community standards. Would those be different than the jail standards?

A. In some ways, yes. We provide essential quality health care. There is a piece of that where we don't provide cosmetic services. We don't provide at times what we call comfort services. We have to make sure, because we are spending taxpayers' money, that there is a need for the services we provide. A medical need is determined by our medical providers.

Q. And who would be included in the classification of medical providers?

A. Dr. Jeffrey Keller is our responsible physician. Which is titled through our National Commission on Correctional Health Care Standards. Eric Wells is a physician assistant. And Megan Tumulty is a nurse practitioner.

Q. And were they the individuals -- would that have been true back in August, September of '08?

A. No.

Q. Then who was the responsible physician?

A. Dr. Steve Garrett. And, if I remember correctly, Dr. Jeffrey Keller took over as responsible physician October 1 of 2008. And Dr. Steve Garrett went right up to that end of September date.

Q. And Dr. Estess, would he be included in that category of individuals back in August and September?

A. Yes.

Q. What about Ricky Steinberg?

A. He was contracted to help complete the health assessments. So he wasn't a primary care provider. And most of the care he provided was

really just in the realm of doing initial health assessments. So when I think of our care of medical providers, I don't think of him. Although, he certainly provided medical care in that contracted component.

Q. Are you referring to the 14-day health assessments?

A. Correct.

Q. Previously you were aware that that had been an area that the NCCHC had identified as lacking for the jail?

A. Something that we struggled with; yes.

Q. And that was as far back as 2004?

A. I can't say that I'm aware of back to 2004. As a social worker I didn't have as much input or exposure to the need to meet the standards. And the health assessment piece, as well.

Q. Part of the 14-day health assessment includes a mental health assessment?

A. Correct.

Q. And you were the lead social worker back then in '04?

A. I started in '05. January of '05.

Q. And were you the lead social worker at

that point?

A. I was the only social worker. So I was not identified as the lead. But I was the only social worker.

Q. So did you participate back then in the assessments?

A. Not in the 14-day health assessments. The nurses are well aware of how to complete those. The mental health portion of the 14-day health assessments. So that was their piece. And then they would make referrals based on thos health assessments to me as needed. But I was not involved with the 14-day health assessments.

Q. And was that the case in August and September in terms of the social workers involvement in the 14-day health assessments?

A. Correct. As far as I know, the 14-day health assessments have been completed by either a midlevel, a nurse practitioner, or a PA. Or a physician can do it. Or a nursing staff. The social workers or mental health staff have not been involved in those 14-day health assessments.

Q. But whoever the medical provider is that does the assessment, if they make a referral for mental health reasons, the referral is going

to be to the social worker?
A. Usually. And most often the mental health needs are caught at the screening when the inmate comes into the jail. So usually those internal referrals come before that 14-day health assessment. If there are clinical issues they usually rise to the surface before then. Either by a deputy at intake. Or a deputy referral in the dorm. But they absolutely can come from the 14-day health assessment, as well.
Q. You have reviewed the records of Bradley Munroe while he was in the Ada County Jail?
A. I have. But not within the last real recent time frame.
Q. Are you able to say whether or not he ever received a 14-day health assessment?
A. As I understand it, he did not. As we define a 14-day health assessment by formal definition, my understanding is that both times -- well, at least one time he was seen by a medical provider and a mental health provider. So, technically, if you talk about an assessment, he received both a medical and mental health assessment during his first visit. And the

mental health assessment during the second. If I have my time frame right. So even though it may not fit into the formal definition of that 14-day health assessment, he did receive medical assessments.
Q. Mr. Munroe was in the Ada County Jail from August 28 of '08 through September 26, '08.
A. Okay.
Q. And that would have been his longest period. It really is the only period he was there longer than 14 days.
A. Correct.
Q. And just so I understand. Are you saying that during that period he had a 14-day health assessment?
A. Again, it is not necessarily the 14-day health assessment. The purpose of the 14-day health assessment is to catch medical and mental health issues that we need to address. As I understand it, he did request services by our medical staff and was seen by a medical provider during that time frame. Unless I'm not remembering correctly. But that is my recollection. And he was also seen by a mental health provider during that same period. So

although he did not receive that formalized 14-day health assessment, he was seen by both medical and mental health staff. The expectation is that if there were any acute issues that needed to be addressed, that they would be brought forward when he was in front of either the midlevel provider or the social worker.
Q. You said acute issues. There is really no attempt to address the chronic issues that an inmate may have?
A. Acute or chronic. Absolutely. Any issues that an inmate may have, generally, when they see a provider, the providers hear it all. When an inmate has that visit with a medical provider, or a mental health provider, that is when they will come in and say, "Oh, I've got a broken toe. And, oh, I need a tooth pulled. Oh, I need this thing looked at." So when they meet with that provider generally we do hear any kind of medical, or mental health, or dental complaint that they might have.
Q. During the 14-day health assessment -- and that includes the mental health assessment; right?
A. I would call it a screening. Sure.

Q. Is it fair to say that that is more thorough than the initial medical screening when the inmate is brought into the jail?
A. It is actually very similar.
Q. Is it?
A. Um-hmm. If you look at our initial intake questions, our booking deputies are getting frustrated because there are so many questions. Back then it was in our JICS. Currently it is in our JMS. There is actually quite a few questions during that initial screening. The 14-day health assessment is certainly there as a safety net and as a function for us to get more information. But that screening is quite thorough, as well.
Q. And does the 14-day health assessment have any relationship with the process of establishing discharge planning for inmates?
A. Potentially. I think anytime we have interaction with a patient we think about what that next step is. So whether it is through a 14-day health assessment, or through a visit with a medical provider, or a mental health provider, that is all a piece of it.
Q. After reviewing the records related to

Mr. Munroe are you able to say whether or not there was a discharge plan in place for him?

A. If I remember correctly, from reading the notes, there was some -- I guess confusion is the best word. Whether or not he actually did receive the discharge form. As I understand, it was completed by Dave Weich. And it listed the medications he was taking. And was dated the date of his release. So it sounds like the intent was there to provide him with the discharge medications. And it includes information on where to follow up. So that piece was in place and in the computer.

As I understand it, it was not signed by Bradley Munroe when he left. So there is some gray area as to what happened after that. But from what I understand there is that document to show that our nurse, for all intents and purposes, completed the discharge form with all of the information on it.

Q. Should that discharge form include how much medication is being released with the inmate?

A. I don't remember if we count the pills or not in terms of -- I know we say what

medication they are getting when they're leaving. I don't know if they count the pills or not.

Q. Do you know if in the August, September of '08 period there was a policy in place in terms of the medical staff counting how many pills are being released with the inmate?

A. I don't know.

Q. What about on the security staff side? Is there a policy related to that for them, do you know?

A. I don't know.

Q. You would agree, though, there is a policy in place that an inmate may be released with at least ten days' worth of medication?

A. It is interesting you say that. Because we have gone back and forth on what is appropriate. What is necessary. When I came in as the manager in 2008 one of the first things we looked at is our standard operating procedures for health services that were in place still reflected some practice that had moved forward. And that had changed. And so some of our standard operating procedures were not brought up to speed yet. So one of my first jobs was looking at what is the best policy. What is the

best practice. And we wanted to make sure the practice, first and foremost, was appropriate. And there were times that the policy had not been brought up to speed yet. So in terms of the actual policy in 2008 I can't tell you what it said. I can say we have had a lot of discussions about what is appropriate in terms of discharge planning.

Q. With regard to how much medication was to be released with the inmate in that August, September 2008, you are not able to say what the policy was at that time?

A. Unfortunately, I can't. I don't want to give you an incorrect answer. I know we have talked about everything from providing the inmate medications that are left over from their stay. For example, if they were prescribed 30 days of medication, and they had been there five, they leave with their 25 days of meds. Or they leave with -- you know, if there is ten days' worth of meds, they get that. Or is it appropriate for us to say, "Hey, follow up at Terry Reilly or follow up at Region IV to continue your medication."

So we have talked about a lot of different models. And after so many discussions

I can't tell you that number in 2008.

Q. If Mr. Munroe was released on the 26th of September 2008 with one of his pills that were anti-psychotics, would that be in compliance with the policy at that point? Or can you say?

A. Again, not remembering the exact policy, I can't say.

Q. All right. Has there been a problem as of August, September 2008, during that period, was there a problem with medication management in the jail?

A. Can you clarify the question, please?

Q. I'm wondering if there was a problem in terms of documenting whether or not an inmate was receiving their medication while they were in the jail?

A. Not that I can recall.

Q. And what about problems with -- well, I'll come back to that.

A. Is there a more specific question regarding --

Q. Yeah. And I think I can probably get a more specific question to you in the context of the documents. Which I've got a big stack of them here. So let's start with that.

Are you familiar with the way that inmates were charged for their medications in the August, September '08 period?
A. In a general sense.
Q. And how was that?
A. My understanding is that we charge a $5.00 fee that is an administrative fee to order and process the medication. The county pays for the medication. So we pay a pharmacy bill every month that is quite extensive for the medication. But we don't charge the inmates that. The $5.00 fee. We charge them for the processing and administrative part of it.
Q. And if they don't have the money --
A. They get their meds, anyway. We do not withhold treatment because of lack of ability to pay.
Q. When they pay five dollars -- is there a standard in terms of how much medication is ordered for them?
A. It all depends on the clinical order from the provider.
Q. Is there a typical amount? Like a 30-day supply? A 10-day supply? Something like that?

A. All of it depends. For example -- and, again, I'm not a medical person, just to make sure that is clear. Antibiotics are often ordered for seven days. So that same $5.00 fee would apply for an antibiotic that was ordered for seven days. As the same $5.00 fee would apply to something that was ordered for 30 days.
Q. Yeah, I think I can probably be a little more specific here. Mr. Munroe was prescribed -- my understanding is he received an anti-depressant by the name of Celexa.
A. Okay.
Q. Does that comport with your memory of the records?
A. Yes.
Q. And then he was also prescribed and receiving an anti-psychotic medication. I believe it's pronounced Perphenazine?
A. Yes.
Q. Can you tell me whether there would be a standard amount that would have been ordered for him during his stay with relation to those two medications?
A. From my experience, and from what I have seen, both of those medications would

probably have been ordered for 30 days. Again, that would be more of a general statement, though.
And to clarify that on my part. A lot of things affect how long medications are ordered for. We do get patients that say, "My mom is going to bring in my Celexa." And for some reason it is better. A certain kind of Celexa. Again, I don't know, not being a medical person. So our provider will order it for a shorter time until that other kind is delivered to the jail. So there are a lot of variables that affect how long the medication is ordered for.
(Exhibit TT marked.)
Q. (BY MR. OVERSON) You have been handed an exhibit that has been marked as TT. In a general sense, do you recognize that type of document?
A. You know, interestingly enough, I don't see a lot of them. It is obviously a transaction history as it is labeled. But I can't tell you that I'm as familiar with the format.
Q. There are three different $5.00 charges. Do you see that?
A. I do.

Q. Then one of them is for a lab on 9-12-08. We are going to kind of put that aside and not worry about that.
A. When you say lab on 9-12-08. I don't see it on my form. Can you point that out to me.
Q. Do you see pharmaceutical supplies?
A. Oh, there it is. Because the date is the 9-18. But the lab was drawn 9-12.
Q. Yes. So looking at the other two $5.00 charges. If we assume that it is for his Celexa, and his Perphenazine, can you tell me whether he would have received a 30-day supply?
A. Based on looking at this I can't tell you that.
Q. When would the order have been placed? Can you tell by looking at this form?
A. I would be better able to tell you using the electronic medical record. If I'm reading this form correctly it says, "Note: Meds, 8-29-08." And, "Note: Med reorder 9-4-08." So I would think that is when the meds were ordered. But I can't tell for sure without the electronic medical record.
Q. I want to go back to some of the questions about your duties as the health

services administrator.
A. Sure.
Q. Exhibit N has been placed before you. Do you recognize that document?
A. Yes.
Q. What is that document?
A. It looks like my job description. Which is for the health services administrator.
Q. And does that outline your primary job responsibilities?
A. Yes.
Q. So part of that would be supervising the nursing supervisor?
A. Correct.
Q. The physician's assistant?
A. Correct.
Q. The social workers?
A. Correct.
Q. And the health services administrative supervisor?
A. Yes.
Q. And that was Leslie Robertson at the time in August, September '08?
A. Yes.
Q. And then you were also responsible for

developing and establishing policies, procedures, and protocols?
A. Correct.
Q. For the effective and efficient care and delivery of medical and mental health services?
A. Yes.
Q. And to ensure quality and consistent services are delivered in compliance with the Sheriff's Office policy?
A. Yes.
Q. And professional standards?
A. Correct.
Q. And professional standards, that would include professional standards applicable to social workers?
A. Yes.
Q. Are you familiar with the term "best practice" in the context of social work?
A. You know, it is interesting. "Best practice" is kind of a newer term in the field. Probably for the last couple of years. But I'm aware of it; yes.
Q. By a couple of years, what do you mean?
A. There is some stuff in social work that

I learned in graduate school. And it has kind of been part of my makeup as a social worker. Best practice was not a word that we used in school. It wasn't a word that had been around through my training. And so it is a newer word for me.
Q. But you are familiar with it?
A. Yes.
Q. And what does it mean?
A. I would say for the most part you want to ensure that you are utilizing best practices whenever you're performing your duties as a social worker. And that is the newness part. Best practice I think are defined by different people in different ways. Some people define best practice as evidence-based practice. Other people talk about best practice as making sure that you are using your best clinical judgment. Other people define best practice as making sure that you are abiding by the ethical standards set forth by NASW. The National Association of Social Workers. So I can't say that in the field there is one definition of best practice.
Q. So the professional standards referenced in your job responsibilities, what are those?

A. Oh, I think a lot of that depends on the training you have received in graduate school. Or any kind of training program you have been in. The National Association of Social Workers ethical guidelines that are set forth. I would say those would be the top two. Utilizing the skills you have been trained on and making sure you are following best ethical practice.
Q. And let's talk about in the jail context. Because I think that is a little bit different.
A. Sure.
Q. Are the professional standards for a social worker established in the context of providing social work services to inmates in a jail?
A. Oh, I think they stay the same. You still provide assessments and treatment and diagnoses based on your training and following those same ethical standards.
Q. So the standards applicable in the community at large would be the same as in the jail for a social worker?
A. Again, it depends on what you are talking about. It is a very general statement.

There are specific applications that may differ between the practice in a jail setting or in a hospital. Because essentially it is a completely different animal. But you are still going to abide by those same standards set forth by your training, your discipline, and the NASW ethical standards, as well.

Q. Let's talk about suicide assessments in that context.

A. Okay.

Q. Are the professional standards for conducting a suicide assessment in the community at large the same as they would be in the jail context?

A. Again, the way I think about it, professional standards is a very broad term. So I think the same standards apply. As a clinical social worker you are going to pull on that. Your foundation that has been developed from training and your experience. And you are also going to follow the same ethical guidelines. How you practice may differ because of the setting.

Q. Are the professional standards applicable to a social worker doing a suicide assessment, in the context of a jail, are those

set in part -- because I think you said there are several different entities -- set, in part, by the NCCHC?

MR. DICKINSON: Object. Vague. Compound. But you can answer.

THE WITNESS: You know, it's interesting. When I think about clinical social work I think about, again, pulling on the training and the experience. NCCHC will outline some kind of broad definitions of what they think should be done. But it doesn't necessarily dictate the clinical interaction. NCCHC is really good at -- they give us this broad spectrum to practice within. The clinical decisions we make, however, are not dictated by NCCHC.

Q. (BY MR. OVERSON) The Sheriff's Office policy -- you would agree that the Sheriff's Office policy incorporated the 72 standards established by the NCCHC?

A. Yes.

Q. So for all intents and purposes the 72 NCCHC standards were the Sheriff's Office policies?

MR. DICKINSON: Object. Vague.

Misleading. And, actually, so far the court's motion in limine precludes NCCHC --

MR. OVERSON: No, it doesn't.

MR. DICKINSON: That's fine, Darwin. We can disagree. Appreciate you trying to help. As far as motion in limine goes right now the court has made a ruling that we won't be talking about the NCCHC. But to the extent this is discovery, you may answer.

THE WITNESS: If I remember correctly, and, again, when I came into the administrator job, there were some pieces of the standard operating procedures that I knew pretty early on that we probably needed to tweak. I can't tell you that they matched exactly. I can tell you that they were used as a basis for our standard operating procedures. But if I remember correctly there was a lot more information in our standard operating procedures, since we have done our update, that I have actually removed. So there was information in there that absolutely was in line with NCCHC. And there is information in there that I think reflected previous practices that we needed to update. So it was not reflective of the NCCHC standards verbatim.

Q. (BY MR. OVERSON) This description of your -- the job description here for the health services administrator, this was the one that was applicable in the August, September '08 period; correct?

A. Okay.

Q. Is that correct?

A. To the best of my knowledge, it has not been changed. So I would believe so.

Q. And in that capacity you're responsible for the training of the medical staff in the Health Services Unit?

A. I'm responsible for ensuring that they receive adequate training; yes.

Q. And would that be training on the Sheriff's Office policies, specifically? Or, rather, would include that?

A. As I mentioned previously, when I came into that position I recognized pretty early on that some of our standard operating procedures did not reflect the practices that we were implementing. So my focus in 2008 was training on best practice. On developing programs. And actually working toward updating our standard operating procedures.

Q. So as the policies were written -- and I'm referring to the ones applicable to the Health Services Unit, specifically.
A. Correct.
Q. And I think that is what you have been talking about.
A. Yes.
Q. As written in September of '08 was the jail following those policies? Or is this what you are talking about in terms of that would have been a period of transition?
A. I would say --
MR. DICKINSON: Object. Vague. Compound. You can answer, if you can.
THE WITNESS: It certainly is a very broad question. So I think whereas the standard operating procedure and policy was good, and made sense, and was appropriate, we followed it. Where it wasn't, we didn't. Which I know was not ideal. But any system, if it is a good system, is a system that is changing and constantly improving. And sometimes -- in my opinion -- to ensure that the practice is appropriate, and the policy catches up, is important. What we did not want to do was institute a whole new standard

operating procedure manual that did not reflect what we were doing at all. We needed to ensure that the practice we were conducting, and the services we were providing, were appropriate.
Q. (BY MR. OVERSON) What about in the area of suicide assessment? Was a policy as written being followed? Or was that an area where the practice had been updated or changed?
A. In my opinion, and I don't remember it very detailed, but, in my opinion, the suicide precaution policy was very cumbersome. It was very lengthy. Very cumbersome. And I don't think very user friendly. So when we updated it we did change that policy. Or the standard operating procedure.
Q. What aspects did you identify in the written policy that was applicable in September of '08 that was cumbersome?
A. In my opinion, it was so detailed out that it would be almost impossible for any person to follow every single detailed piece of that. To give my analogy, it would be -- if I needed to go use your bathroom, and I know where your bathroom is, but the policy says I can only step on the red tiles, and I need to tap the wall

twice on my way to the bathroom, and if I step on a blue I can't get there, it's not helpful. It is more of obstacle in getting there. And so we needed a policy that still met NCCHC guidelines, and still met best practices, and maybe didn't require that I tap on the wall twice or step on the blue tiles.
Q. This would be Volume II. Exhibit W. We have been discussing the suicide risk procedures. And I am going to present you with Exhibit W.
Is that what you have been talking about in terms of the policy that was cumbersome?
A. Actually, no. This is the Jail and Court Services Bureau Standard Operating Procedure. I was referring to the Health Services Standard Operating Procedure regarding suicide precautions.
Q. You are familiar with that policy, though?
A. Yes.
Q. And was that policy being followed in August, September '08?
A. I'm familiar that it exists. I cannot say that I am as familiar with it to tell you

whether or not it was being followed.
Q. Do you know if it was consistent with the SOP's that were applicable in the Health Services Unit at the time?
A. If I remember correctly, it is fairly consistent.
Q. In that same binder if you would turn to Exhibit V.
A. Could I take a quick break?
Q. Sure.
(Recess.)
(Exhibit UU marked.)
Q. (BY MR. OVERSON) Go ahead and take look at Exhibit UU, and tell me, after you have had an opportunity to look at it, if you are familiar with that?
A. I am familiar with it.
Q. And what is it?
A. I'm sorry?
Q. And what is it?
A. It's the suicide prevention standard operating procedure for health services in 2008.
Q. In the August, September period?
A. Correct.
Q. And is this the policy that you were

referring to that was extremely cumbersome?
A. Yes.
Q. The medical intake procedure in booking, do you see that? Under "Procedures"?
A. Oh, sure.
Q. Those three questions on suicide?
A. Yes.
Q. That is not the part you felt was cumbersome; was it?
A. No.
Q. And then the booking officer making an observation whether the inmate's behavior suggests depression, suicide or assault.
A. No.
Q. Not cumbersome; is that right?
A. Correct.
Q. Your understanding of this policy. If the inmate answers "yes" to any of those first three are they required to notify the medical unit staff?
A. I'm trying to be precise. In 2008 I can't tell you for sure if their policy dictated or if our policy dictated that. It would make sense. But I can't tell you if our policy dictated that. I would have to --

Q. Go ahead and take a look at paragraph three below.
A. The wording in here I think is a little murky in that although number three says, "Security staff will immediately notify the medical unit and provide all available information on the potentially suicidal inmate." Sometimes there is a gray area. If you say "yes" to "Have you ever tried to commit suicide," but the "yes" is when they were 15, and their boyfriend broke up with them, and they didn't really try to commit suicide. They just pretended to to get the boyfriend's attention. And I don't mean to get so specific. But we run into all of those types of scenarios. So it is not a very black-and-white.
Q. I hear you say it is kind of on a spectrum in terms of the person's history. Like, for instance, in the question you used, "Have you ever tried to commit suicide?" A recent attempt that was serious under the policy, would that require that the officer notify somebody in the medical health unit?
A. I would believe that that would fall into the realm of the notification.

Q. And that would be true if the inmate -- or if the booking officer indicated that the inmate's behavior suggests suicide?
A. Correct.
Q. Now, if you would turn to the second page of that policy. The first kind of semi heading there. "Training Identification." And then it says under that "Assessment."
Do you see that portion?
A. Yes.
Q. Is that the 14-day assessment that we were discussing earlier?
A. Yes.
Q. And your understanding is Mr. Munroe had that when he was incarcerated in August and September of '08?
A. As I mentioned earlier today, in my opinion, and from my understanding, he did not receive the formal 14-day health assessment. But he did receive both medical and mental health services that, in my opinion, provided some of those same services.
Q. And then "Referral/Communication," that first sentence, that would be consistent with your testimony a moment ago that the officer

would have to contact the medical services unit?
A. Correct.
Q. And it proceeds after that in the next sentence it says, "an assessment will be conducted and documented by the health care staff to ascertain the level of suicide risk."
A. Correct.
Q. Was it your understanding that the policy applicable in August and September of '08 required that the suicide assessment assign a level of risk? Make a determination as to the level of risk?
A. According to our policy, and what I'm reading, it absolutely states right here that the person will be assigned a level of risk to assist in determining appropriate intervention. In my experience, making that assignment so early on is often difficult. So that process may be an ongoing process. So I can't say that the assignment of a level is always appropriate to be done at that first contact.
Q. When should it be done?
A. It's a process. There are folks who come in and none of the indicators indicate that there is a real suicide risk. But if the

clinician has a gut feeling that there is a concern, they will house them in medical and put them on a mental health observation. And then as that inmate becomes more comfortable in talking about their issues they will then place them on a yellow suicide status or an orange suicide status. So although this policy talks about a level of suicide risk, again, I think I would want to be careful about making such a black-and-white assessment.

Q. If you turn to the next page. There is several categories. And it kind of runs onto the next page. Low risk, moderate risk, and high-risk. Under "Low Risk" you would agree that those are the appropriate factors for the social worker to consider in doing a suicide assessment at the jail?

A. Can I back up and not answer that question first?

Q. Yeah. That is another rule in this. If something occurs to you, just blurt it out.

A. Perfect. The low risk, moderate risk, and high risk are actually the pieces we did not include in our updated standard operating procedures. In my opinion, they are training

points rather than policy points. They are guidelines. Rather than something, in my opinion, should be in a concrete policy and procedure. The high risk says probably a real and immediate risk of suicide. We get a ton of people who are males under the age of 25, you know, who meet some of these criteria who are no way a risk of suicide. So, my opinion, this is that piece where there are blue things on the wall, and red things on the floor, that may distract you from what you need to look at. So, in my opinion, these pieces are pieces that are a distraction. They are helpful and are training topics. But I don't believe that they belong in a standard operating procedure.

Q. Would you agree that the items listed under "High Risk," that those are appropriate factors to consider as a social worker working in the jail doing a suicide assessment?

A. Yes.

Q. And correct me if I'm wrong, but what I hear you saying is that you can't just pick one or two of these? You have to kind of look at the whole picture?

A. Correct.

Q. And then the next two pages are kind of -- and correct me if I'm wrong here -- but it is the preventative portion once a suicide risk has been identified?

A. Are you specifically referring to the orange or moderate risk? Or yellow or high-risk areas?

Q. Yeah. And I understand that you don't totally agree with this three-tier part being in the policy. But what I'm focused on in the question is, it kind of outlines some precautions you had in place for people who had been identified as suicide risks?

A. And to clarify. I don't not agree with that three-tier. I think you absolutely need to have some functioning practice in terms of the readily identifiable orange risk, or yellow risk, or red risk. The piece that I wasn't comfortable having in our policy and procedure were the training items that identified the factors that made up low risk, moderate risk, and high risk. So defining what orange, red or yellow is, and how we treat those folks in our facility, I'm uncomfortable with.

Q. So the primary part of the suicide

prevention policy that was cumbersome was this high risk, medium risk, low-risk portion that you have been talking about?

A. Correct. And not because it is not important. But because I don't believe it belongs in the standard operating procedure; correct.

Q. And part of that is because you are hiring professionals; right?

A. Oh, absolutely. But that also, for our lay people, if our deputies are utilizing and looking at our standard operating procedures, and they aren't professional mental health folks, some of these indicators may confuse them. Or they may take them out of context. And it may be misleading. So I think there is some danger in a little bit of knowledge. Using the old cliche.

Q. Did you undertake any efforts to make sure that -- because what I hear you saying is that this wasn't necessarily the policy that was followed in August, September of '08.

MR. DICKINSON: Object to the characterization. But you can answer.

THE WITNESS: And I can't even say that. I can only say that when we updated it

these pieces -- the pieces I referred to previously, I'm not comfortable in having in our standard operating procedures. So they are not in our updated one. I can't say whether it was followed in 2008.

Q. (BY MR. OVERSON) I'm wondering, then. Can you tell me whether or not the practice within the Health Services Unit, whether it was consistent with this written policy?

A. I think big picture it was. I think anytime a clinician looks at an inmate they are taking into account symptoms. They are taking into account how that person looks. They are taking into account the circumstances. And all of the things that are outlined in here is part of the inherent thought process of a clinician when they are doing a suicide assessment. So I'm not saying it doesn't exist. It wasn't followed. My reference to my updated standard operating procedure was simply referring to what I think is appropriate in the standard operating procedure.

Q. You can set that aside for a minute.

(Exhibit VV marked.)

Q. (BY MR. OVERSON) Do you recognize Exhibit VV?

A. Yes.

Q. And what is it?

A. It is our booking screening operating procedure for health services. It was a 2004 revision. Which means it would have been in place in 2008.

Q. You had mentioned JICS earlier that was in place in August, September?

A. Yes.

Q. And, actually, July '08, as well?

A. I believe so.

Q. My understanding, and correct me if I'm wrong here, is that the deputy fills out the JICS form?

A. Correct.

Q. And then that is moved over to the medical unit shortly thereafter. Within two hours or something like that. Right?

A. Yes.

Q. Where it is then reviewed by a nurse or a PA?

A. Correct.

Q. And the information is reviewed -- or the document is reviewed and the relevant information is transferred over onto the CorEMR system?

A. Yes.

Q. Do you know any reason that on September 29, '08, Lisa Farmer, when reviewing the JICS form for Bradley Munroe, why she would think that Mr. Munroe was out of custody?

MR. DICKINSON: Object. Speculation. You can answer, if you can.

THE WITNESS: Often -- not oftentimes. I would say it probably wasn't that often. My only answer to that would be that there were times that our jail management system didn't speak to, in layperson's terms, our electronic medical record. Our electronic medical record depends on our jail management system to populate its information about the inmate's housing status. Their custody status. And so there have been times where that information doesn't get to our electronic medical chart. We have taken steps to help decrease the chance of that happening. I can't say it has happened in the recent past. But we have gone through periods of time where it has been very frustrating where our medication room nurses had to manually look up every location of where a person lived to make

sure that they get the meds to the right person. So we take a lot of manual steps to ensure we are still providing appropriate care. In this case it sounds like -- my guess, I would speculate, that this is one of those instances.

Q. (BY MR. OVERSON) Where it simply didn't synchronize?

A. That would be my guess. Our nurse would have no reason to write "out of custody" on a form, unless they got information from somewhere.

Q. Along that process where an inmate indicates "yes" to recent suicide attempts. Thinking about suicide. And the nurse or the PA reviews the JICS form. And they make the determination that an assessment needs to be done. And the form says priority one, high. Was there a policy in place, or a practice, or a requirement of any kind, that set the standard for how soon the social worker would speak with that individual to perform that --

MR. DICKINSON: Object. Vague and compound. But you can answer.

THE WITNESS: I am not aware of a policy or a procedure written in place that

dictates that. As someone who has worked in that position previously as a social worker, what I can tell you is that job is a constant -- there is a constant triaging going on. Similar to an emergency room. So there is days you can go into the emergency room and you are the only one there and you are seen right away. There is other days where I may go in with asthma, but the person before me is having a cardiac event. So they get seen first. And there are days when that waiting room is full. And days when it is not. Same things apply to our social workers list. You can go long periods of time where everyone is seen that same day. And then there is another day when you get five emergencies from booking and three people cutting on themselves in our medical housing. So someone who may have been a priority previously then becomes the next step down on priority list.

Q. (BY MR. OVERSON) Bradley Munroe was brought into the jail on August 28, 2008.

A. Yes.

Q. Then Mr. Johnson, the social worker, performed a suicide assessment on September 1.

A. And when you say "suicide assessment."

Was it labeled as a suicide assessment?

Q. Yeah. Let's take a look here.

A. I just want to make sure I get the wording correct. Or I guess at the same time I would be more comfortable saying the evaluation. Because any assessment has a component of a suicide assessment within it. But not every evaluation is a suicide assessment. That is not always the first and foremost thing you are looking at. So I just want to be careful on what we call it.

Q. I appreciate that. If you could turn to Exhibit E?

A. And if you can tell me that Jim Johnson called it that in his notes I'm comfortable with that.

Q. Let's go through these so we do have some specificity here. Let's start on the third page in.

A. Yes.

Q. You would agree that the record indicates that on October 28, '07, there were no medical issues reported for Mr. Munroe?

A. I must be on a different page. So third page in?

Q. Yeah. It is hard to read the Bates stamp on them. I think it is 122.

A. Yep. I'm there.

Q. Okay. On October 28, '07 you would agree the record indicates no medical issues for Mr. Munroe.

A. On 10-28-2007. Correct.

Q. And then on July 4, '08 the record indicates that there was a JICS review. And that would be by a medical staff member?

A. Correct.

Q. Indicating that he was treated for bipolar and OCD 13 years.

A. Correct.

Q. And then again on August 28 Mr. Munroe is in the jail, evidently, and there is two medications that appears he is prescribed on the 28th. Is that correct?

A. The only thing I don't know about, because this is a summary page, if that was the date that a new prescription was prescribed. And it may very well have been. Or if it is just a note that those are current prescriptions. And I don't mean to split hairs. But I just want to make sure I know exactly what I'm looking at. My

assumption would be that it looks like a prescription was written. But I can't tell you that from just this summary page. Do you have maybe the medication detail that I can look at?

Q. Yeah. Page 130.

A. I was going to say even by looking at the medication activity record it looks like he received those medications on August 29. Which would support them being prescribed on the 28th. Okay. I'm comfortable with that.

Q. Then there is a note there -- going back to the summary notes above on 8-30. "Note JICS review. On meds from provider already. Sees Dr. Bushi."

A. Correct.

Q. But you would agree Mr. Munroe was incarcerated on the 28th of August '08?

A. That is my understanding.

Q. Any idea why the JICS review would take that long?

A. I could only speculate that they had activities that took priority.

Q. Was that common where the JICS forms wouldn't be reviewed by a medical staff on a daily basis?

A. I would hope not.
Q. But it did happen?
A. It looks like it happened here. But it also looks like, even though it took two days for the JICS to be reviewed, that the prescriber did get the information about his medications and get them prescribed before the JICS was reviewed. So as administrator that gives me a level of comfort, as well.
Q. Let's have you turn to -- you know it is probably easier to find if you go to 135 and then turn back one. Are you there?
A. Yep.
Q. Tasks. Can you tell us what that is?
A. The tasks are essentially scheduled appointments for something to be done.
Q. And the one on 8-31-08. That task or appointment is set by Nurse Lisa Farmer?
A. Yes.
Q. And it is assigned priority one. Which is high.
A. Correct.
Q. And the task is for an appointment with the social worker; right?
A. Yes. Jim Johnson.

Q. And, actually, on 8-31 this is a record of Mr. Johnson rescheduling due to high level of urgent/infirmary patients?
A. Correct.
Q. I'm having a hard time reading that page. But the priority one equals high. Something equals low. Is that two?
A. I think it is a five.
Q. So it went from one to five?
A. I don't remember in 2008 how we used our priorities. For example, currently a three is a chart review. Two might be chronic care follow-up. So there is different uses. I can tell you that the majority of the patients that are scheduled with the social workers are scheduled as priority ones.
Can I step out and ask Jim a question?
MR. DICKINSON: Sure. Absolutely.
(Recess.)
Q. (BY MR. OVERSON) I'm kind of jumping around here a little bit. If you can find 143 in Exhibit E. And then back up one page.
Do you see it says, "Chart Notes"?
A. Yes.
Q. Again, on 10-28-07 no issues; right?

A. Correct.
Q. And then on 7-4-08 it indicates JICS was reviewed. And that is by medical staff; right?
A. Correct.
Q. And per JICS the patient had been treated for bipolar and OCD 13 years ago; right?
A. Yes.
Q. And the patient attempted suicide in January at Sacramento Mental Health.
A. Yes.
Q. And then it says, "No suicide or other medical issues at this time."
A. Correct. And, actually, the SI stands for suicidal ideation; yes.
Q. And you reviewed Mr. Munroe's medical records previous to this deposition?
A. I did not in the near recent past. But I have. Yes.
Q. And you didn't see a suicide assessment for July; did you?
A. In July of 2008? I can't remember. How long was he there for in July of 2008?
Q. Just three days. Well, at least from the 4th to the 7th.

A. I don't believe so.
Q. If an inmate answers "yes" to those suicide questions on the screening -- well, let's look at the screening. If I can find it in all of our many exhibits. Go forward to Exhibit J. And we are looking for the 7-4-08. Which is page 70 of that exhibit.
A. Okay.
Q. And you would agree that that appears to be the JICS for 7-4-08?
A. Yes.
Q. And turn to 71. In answer to the officer's question, "Have you ever been in a mental institution or had psychiatric care?" And the answer is "yes."
A. Correct.
Q. And it says, "Bipolar and OCD when 13 years of age."
A. Yes.
Q. Not 13 years ago?
A. Written that way I would assume it means 13 years of age.
Q. "Have you ever contemplated suicide?" And to that question it is indicated as "yes."
A. Yes.

Q. "Have you ever attempted suicide?" The inmate indicates "Yes."
A. Correct.
Q. "When?" "January." Right?
A. Yes.
Q. And "Where?" "Sacramento Mental Health."
A. Correct.
Q. And then "No" to "Are you contemplating suicide?" And "No" to "Does the inmate's behavior suggest a risk of suicide?"
A. Correct.
Q. Per policy in July of '08 should Mr. Munroe have been referred for a suicide assessment based on those answers?
MR. DICKINSON: Object. Calls for speculation. But you can answer to the extent you can.
THE WITNESS: I wish it were that clear cut. One of the pieces of information we have been grappling with is we are looking at doing more and more training, and putting more standard operating procedures in place, is, what is that time frame that makes an assessment urgent or makes the need for an assessment an imminent one?

For example, during these JICS questions -- and this is, I'm sorry, from July; correct?
Q. (BY MR. OVERSON) Um-hmm.
A. Technically, the suicide attempt would have been six months prior. As a social worker I would look at this and think yes, I would want someone to refer on that. As a nurse who sees so many high-risk patients coming through every day I think there is a piece of that visual assessment where she is looking at the person is not now contemplating suicide. The behavior does not suggest a risk. Knowing that we are going to do the follow-up screening. Doing a health assessment. And we'll get into it later. There is a piece of that where I don't know that our policy is as -- and was in 2008 -- as specific as to dictate those pieces. There is still a subjective opinion that comes into play when a nurse is looking at the JICS review.
Q. But it is a deputy who is filling this out.
A. A deputy is filling that out. And then a nurse is reviewing it through the JICS process. So you are asking me, would this dictate a deputy referral?

Q. Yes.
A. Again, my same thinking comes into play. From a deputy perspective they may be looking at it and thinking there is not an imminent need right now. The person is stating they are okay right now. Their behavior looks appropriate. The deputy knows that we review it and we do a follow-up assessment. And so I can't, again, speculate on the deputy's thought process, per se. But I can say that our policy does not dictate down to the letter. There is still some judgment involved in making those referrals.
Q. And you are talking about policy in July of '08?
A. Correct.
Q. Did your medical staff have access to the security staff's records in August of '08? September of '08?
MR. DICKINSON: Object. Vague. But if you can answer.
THE WITNESS: Do you mean the JICS?
Q. (BY MR. OVERSON) Yeah. Prior JICS forms. Let me ask it more pointedly. When Mr. Johnson did his assessment or spoke to

Mr. Munroe on September 29, '08, did he have access to the prior JICS forms for Mr. Munroe?
A. My understanding back in 2008, if he had wanted to review that, he could have asked the deputy and reviewed them, I believe. But I can't tell you for sure. Jim was really good at computers. And was really good at accessing security information. So I wouldn't put it past him. But I can't tell you if that would have been in front of him or if he would have had to ask a deputy to assist him. I can tell you that there is a possibility that he could have
Q. But there was no policy forbidding the health services staff from seeing these types of records?
A. No. Because at times it is useful for us and helpful for us to access them. It may not have been easy, though. I'm just not sure. And, actually, while you are looking at that. When I talk about, you know, the referrals, and the deputies' referrals, the policy talks about potential suicide risk. And that is the gray area. The deputies to make that assessment of whether this information constitutes a potential suicide risk.

Q. Are you familiar with the deputies training in suicide risk assessment and prevention?
A. When you say "familiar with --"
Q. Well, you actually train deputies in suicide risk assessment and --
A. I have done some trainings; yes.
Q. For the deputies?
A. Yes. One of the trainings I put together specifically was on mental health issues and suicide risk reduction.
Q. And in that were you training them on the policies of Ada County Jail?
A. I believe that the training was reflective of them. And even with them, though, some of these pieces are so specific it is almost impossible to train on all of the intricacies of these kinds of issues.
Q. Did you train them that one of the factors or considerations when making the assessment that the deputy has to make in filling this JICS form out, is that the inmates are at a higher risk for suicide during the initial custody portion of their incarceration?
A. I believe that is a piece of the

training; yes.
Q. And the JICS form is always filled out in the booking process. So at the beginning?
A. Almost always. Oftentimes if someone -- if they are not able to -- if someone can't answer the questions when they first come in the JICS questions will be asked after they are able to answer the questions.
Q. Like Mr. Munroe on the 28th?
A. Exactly. They had to wait until he was coherent and able to answer the questions.
Q. Let's go to Exhibit E again. Page 142. Now, we just got done talking about the 7-4-08. And then the record reflects an entry by RN Lisa Farmer on 8-30-08.
A. Yes.
Q. Again, it is a JICS review. "On meds from provider already." Right?
A. That's what it says.
Q. "Sees Stephen Bushi."
A. Yes.
Q. Do you recognize that name?
A. I do.
Q. As?
A. I believe he's a psychiatrist in the

community.
Q. And then it indicates that Bradley "was in Intermountain two weeks ago for attempted suicide."
A. Yes.
Q. And this is the chart note. And I'm wondering, do you know why we don't see the suicide assessment recorded here that Mr. Johnson performed on September 1?
MR. DICKINSON: Object to characterization. But you can answer.
THE WITNESS: I'm sorry, I don't understand the question.
Q. (BY MR. OVERSON) Maybe this will help you. Turn to 138. Do you see the sick call there for September 1, '08?
A. Yes.
Q. At approximately 12:00 p.m. Mr. Johnson does a suicide assessment?
MR. DICKINSON: Object to characterization.
THE WITNESS: He does an assessment.
Q. (BY MR. OVERSON) Is it a suicide assessment?
A. As I mentioned before, I would say

almost any interview or evaluation that any social worker does in our setting has a suicidal assessment component to it. In this case I imagine a risk for self-harm would be part of the assessment. The way Jim wrote his note it looks to me that Munroe believes his symptoms are well-controlled on his medication. Denies suicidal ideation or intent. He has no complaints at this time. To me that looks more like kind of an initial triage to get a sense of where the patient is at. And so certainly a suicide assessment is a piece of it. Because he is talking about it in evaluation. And someone might call it a suicide assessment. But to me it doesn't look like -- it looks like there is more pieces to the puzzle, I guess I would say.
And, forgive me, I don't mean to be difficult by continuing to question the word suicide assessment. Just working in the field for so long we rarely -- it's funny. We almost rarely label things as suicide assessment. Everything is an assessment or evaluation. And it includes a suicide assessment. It includes a danger to others assessment. It includes a medication assessment. Depending on time it

could include a biopsychosocial assessment. So those are the many pieces of the puzzle that I'm referring to just to put it in context.

Q. And you say this is a record of being a full assessment?

A. I didn't say a full assessment. Just more of a multi-faceted one. He is talking about medication. He is talking about current treatment. He is talking about his symptoms. He's talking about current complaints. There is a piece on his history of treatment. History of hospitalization. There is various pieces to this puzzle. My guess is it would be more lengthy if it were a full biopsychosocial assessment. But I think it is a very concise evaluation.

Q. I understand that generally you are making an assessment as you have just described. A multi-faceted assessment, I guess is the way you put it. One of those facets being the suicide assessment.

A. Correct.

Q. Or self-harm assessment.

A. Correct.

Q. In terms of that portion of the assessment was this typical of the type of

documentation that was taking place in the jail in the August, September '08 period?

MR. DICKINSON: Object. Vague. But if you can answer.

THE WITNESS: Oh, I have seen so many chart notes. There is some chart notes that take up a page and a half for information. There are some that are brief and to the point and more concise. It depends on the presentation of the patient. It depends on other factors. So I can't say this is kind of indicative of a general length of a chart note.

Q. (BY MR. OVERSON) Can you say whether it is indicative of Mr. Johnson's documentation of suicidal assessments?

MR. DICKINSON: Object. Speculative. Vague. But you can answer, if you can.

THE WITNESS: And I can't tell you that. I would have to review his chart notes, in general. I have seen him write lengthy evaluations. And I have seen him write short and concise ones.

Q. (BY MR. OVERSON) Turn to page 124.

A. Yes.

Q. Have you seen those before?

A. Yes, I have.

Q. And what do you recognize them as being?

A. Jim Johnson's chart notes of his meetings with Bradley Munroe.

Q. Based on what you see there was a suicide assessment conducted by Mr. Johnson on September 1 of '08?

MR. DICKINSON: Object. Speculative. But you can answer.

THE WITNESS: Again, I'm going to be very conservative and say an assessment was certainly done. And Jim did note that he was called down to assess a suicide risk in booking. So it does look like an evaluation was done.

Q. (BY MR. OVERSON) And then what about on the 29th?

A. And, actually, the answer I gave pertained to the 29th. The 29th is the chart note where the subject does state, "Assess suicide risk in booking."

Q. Okay.

A. So he was called specifically to assess suicide risk.

Q. Then turn to 127. These are

Mr. Munroe's chart notes; correct?

A. Correct.

Q. 8-30-08. We already talked about that one. He sees Stephen Bushi. Was in Intermountain two weeks ago for attempted suicide.

A. Yes.

Q. Then it skips to 9-29-08. Do you see how that is recorded?

A. Yes.

Q. Do you have any idea why Mr. Johnson's chart notes are not included in that record?

A. I'm not sure I understand what you mean. This is Leslie Robertson's documentation of the phone call. It wouldn't include the separate sick call notes. So maybe you are asking something else that I'm not understanding.

Q. Would Mr. Johnson's -- yeah, let's go back to 124. Maybe that is where the clarification needs to take place. "New sick call." Are these recorded in the system someplace other than the chart note?

A. Yes. So to clarify. In our electronic medical record chart notes are generally described as some kind of interaction involving

the patient that does not involve a face-to-face visit with a patient. So there are telephone calls. There are chart reviews. Activities that don't involve face-to-face visits. Which are what these are on the chart note page. The sick call visits should involve a face-to-face visit. And in this case that is what they are.

Q. You spoke with James Johnson about his interaction with Mr. Munroe on September 29 of '08; is that right?

A. The day that he met with Mr. Johnson?

Q. No. You talked to him about that day. About his interaction with Mr. Munroe on that day.

A. Oh, after the event?

Q. Yeah.

A. I would have.

Q. Several times?

A. I don't remember how many times.

Q. More than one?

A. In terms of informal conversations my guess would be that we would have some ongoing discussions. But I can't tell you how many.

Q. Did you talk about what materials he reviewed before he spoke to Mr. Munroe?

A. I don't know if we did or didn't.

Q. When did it come to your attention that Mr. Munroe had passed away in jail?

A. If I remember correctly, I received a phone call at home the night of the event and came into the jail and met with -- I want to say some of our command staff who are in central control.

Q. Would that have included Linda Scown?

A. It would make sense for it to. But I cannot remember for sure. But it would make sense that she would have been there.

(Exhibit WW marked.)

Q. (BY MR. OVERSON) I have handed you Exhibit WW. Have you seen that before?

A. This does not look familiar to me. I don't always see the media releases. I get them, actually. But I don't read all of them.

Q. This one says that Munroe was moved out of booking and placed into a two-person cell. His cellmate was released earlier in the day, leaving Munroe alone.

You have investigated the surrounding circumstances of Mr. Munroe's death; have you not?

A. "Investigate" is a strong word. That is not my job to investigate.

Q. Right. You have looked into it?

A. Looked into it is probably fair to say.

Q. Is it your understanding that that paragraph is true?

A. I apologize for saying I don't know again.

Q. That's okay. If you don't know, you don't know.

A. I don't know. I do know that when he did hang himself he was in a cell by himself. I'm not familiar with the fact that he had a cellmate that was released later in the day.

Q. Would it be your expectation that on September 29 of '08 that Mr. Johnson would understand the term PC?

MR. DICKINSON: Object. Speculation. To the extent you can answer, go ahead.

THE WITNESS: PC is a pretty common term that is used in the jail. I would think that he would know.

Q. (BY MR. OVERSON) What does it mean?

A. Protective custody.

Q. That is an acronym for protective

custody. But what does it actually mean in terms of the -- what is done with the inmate?

A. My understanding of PC, from the non-commissioned officer standpoint, is that that person is segregated from other inmates.

Q. So they are in a cell by themselves?

A. They are. And usually, almost more often than not, it is for their own protection.

Q. And on September 29, '08 you were Mr. Johnson's boss; right?

A. His second-level boss. His direct supervisor was Shanna Phillips. And as administrator I was kind of the head boss, so to speak.

Q. Would it surprise you if I told you that Mr. Johnson didn't know what PC meant in terms of the inmate being housed by themselves alone in a cell?

MR. DICKINSON: Object. Mischaracterizes previous testimony. But to the extent you can answer, you may.

THE WITNESS: You know, like I mentioned before, it is a pretty common term. But I can't tell you what people know or don't know. When I first started working at L.A.

County Jail I remember the first time I saw ETOH in a chart note. I had to ask my coworker, "What is ETOH?" "It means alcohol. Don't you know?" So for them it was a very common term that they use all of the time that everyone knows. For me it was a new term. So I can't say how often he had been exposed to it. So I guess I can't speculate.

Q. (BY MR. OVERSON) You have certain expectations of your social workers; don't you?

A. Correct.

Q. And one of them would be to be familiar enough with the jail so that they could do their job?

A. Yes.

Q. And you would agree that somebody at risk for suicide is put at greater risk if they are put in a cell by themselves and not monitored?

A. Correct.

Q. So you would expect your social workers to know that they are approving -- if they approve somebody for PC, that they are approving them to be housed in a cell by themselves?

A. Well, that actually depends. I would

say most of my interactions with the officers, they don't ask if someone is approved for PC. They are asked if they are approved for a single cell. Usually that was the terminology they would use. Or the words they would use. Are they approved for a single cell? It wasn't common for me to hear the phrase PC used in asking for clearances.

Q. For clearance you mean when an officer contacts somebody in the mental health unit to get clearance to place an inmate in a single cell?

A. Correct. In my experience they ask, "Are they cleared for a single cell?"

Q. And it was required by policy in August, September of '08 that that call be made to somebody at the mental health services before an inmate is put in that single-cell situation?

A. I'm not as familiar with --

MR. DICKINSON: Object. Characterization. But answer, if you can.

THE WITNESS: Yeah, I'm not as familiar with the jail standard operating procedures, Jail and Court Services Bureau Standard Operating Procedures, to know that that was a specific

requirement. It may have been. I'm not familiar with it. And, again, it comes back to semantics. Single cell versus PC and how they phrase it.

And, as I think about it, if you don't mind me backtracking just a second?

Q. (BY MR. OVERSON) That's fine.

A. I just kind of went along with the rhythm of putting someone -- depending on what that meant -- in a single cell could increase their risk if they are not supervised. You know, I think I probably said correct too quickly. Because I think there is a piece of that where some people actually get more agitated being around people. Some people struggle with the interaction. Some people beg us not to be housed with other people. And there might be a time when being housed alone actually may be a better clinical decision than housing them with other people. So my correct was probably just a little too quick.

Q. But would your answer be different if other circumstances where they are housed in a single cell, or PC, however you want to put it, not monitored the way that they are when they are placed in the Health Services Unit?

A. It depends on the circumstances. And it depends on if that person has been determined to be at risk or not.

Q. If they have been determined to be at risk?

A. If a clinician has seen that person and says this person requires monitoring in a cell, and then that person did not receive that monitoring, I would say that that has the potential to increase risk. But potentially not. It depends on the mental status and the state of that inmate.

(Exhibit XX marked.)

Q. (BY MR. OVERSON) We talked about the 72 standards from the National Commission on Correctional Health Care. You have been handed Exhibit XX. It appears to be section number J-A-05 of the Medical Unit SOP's.

A. Yes.

Q. And we talked about these 72 standards of the NCCHC earlier. Do you remember that?

A. Yes.

Q. And Ada County Jail had adopted those as part of their policy?

A. Adopted them as part of their policy?

They certainly use them as guidelines for their standard operating procedure.

Q. Isn't this a policy setting them as a minimum?

A. Correct. But as I mentioned before all of the standards presented with NCCHC were not transferred verbatim into the standard operating procedures. For example, on the suicide prevention plan. Our previous plan elaborated and added information that is not included in the NCCHC suicide prevention plan.

Q. In the year 2008, prior to Bradley's death, had there been a comprehensive quality improvement program put in place?

A. When you say "program." Do you mean as defined by NCCHC?

Q. As defined by your own policies.

A. Right. Either way. I tend to default to NCCHC so often, because we have been working to stay in compliance. In 2008, that was the year that I became the manager. And so what I can tell you is that we did have practices that fell in line with the continuous quality improvement. Without reviewing my records I can't tell you for sure that we did due process

studies. And do outcome studies. I can tell you in practice we absolutely had a continuous quality improvement program. And that everything that we did focused on improving the system.

Q. There was a policy -- and we can mark this as an exhibit. But my question has less to do with the policy. So I'll just read you a portion of the policy. It says, "If an individual is conscious or semi-conscious he or she must first be cleared for incarceration evidenced in writing by a licensed physician." Does that sound consistent with your understanding of the policy back in August, September '08?

A. I believe so. And it's interesting, because a piece of what we are looking at now, we are looking at that very policy currently, is, who does that clearance? In my view, if someone is conscious, or semi-conscious, they need to be cleared by a hospital physician. So we kind of have that backup impression of what someone looks like before we take responsibility for their health care needs. And I'm not sure if that was specified in that policy.

Q. And you kind of answered it. I was

wondering if that was referencing -- and I'm talking about August, September '08. Basically how that was implemented. Would they be seen -- my understanding, anyway, is that if somebody appears to be extremely intoxicated or injured there needs to be a medical clearance before the jail will even accept them by an outside doctor. Is that your understanding?

MR. DICKINSON: Object. Vague. Go ahead.

THE WITNESS: You know, an injury can range from a scraped knee, which would not require a medical clearance --

Q. (BY MR. OVERSON) Right. And let's exclude those types of --

A. The other day we had a scalp laceration that was deep enough that our nurse thought it required stitches. So we sent that person out for medical clearance. So it depends on the level of acuity. There are so many gray areas.

Q. And I'm not worried about the minor injuries. When it is serious enough that they send them to the hospital for a medical clearance. What I'm really trying to get at here, and I'm trying to understand this, is what

was the process of getting the information that the doctor provided relating to the -- say, you send the inmate over to Saint Al's and they are medically cleared.

A. Sure.

Q. What is the process back in August, September '08 of getting the information from the doctor to the medical unit at the jail when an inmate is brought into the jail?

A. And forgive me if I overlap our current processes. And I'm going to try not to. In 2008, my understanding was that more often than not the deputy would bring the hospital paperwork back. Whether it be discharge plan or basic information on what happened. If we needed further information we would contact the hospital and ask for the records. Which would then be faxed over.

Q. With a release from the inmate?

A. It depends. There is a piece of that continuity of care. If someone is really requiring kind of acute immediate attention for that continuity of care piece they will fax over records without the release.

Q. Were releases obtained for the inmates

regularly?
A. I don't know.
Q. In your professional opinion would that be important?
A. We work so hard to protect the privacy of our patients and the confidentiality of their records. At the same time what is really important is that we remain continuity of care. So it is absolutely appropriate, especially because this person is in our care, that hospitals fax over information without a release. And that does happen quite often. The hospitals are so strict on how they maintain their records. That if it weren't considered appropriate they would not send information. If they ever felt like we were crossing our boundaries, and asking for something that was not appropriate, they would not send it. In which case we would absolutely get a release. But if it was within the realm that have continuity of care the hospitals do often send information to us.
Q. Did the medical staff of the jail back in August, September '08 have weekly meetings with Health and Welfare psychological services staff?

A. Yes.
Q. And that was for continuity of care and transition to home and other facilities?
A. Correct. Oftentimes our patient population overlapped. So, yes.
Q. Were those meetings limited to those individuals that were already in the system for Health and Welfare?
A. They were Health and Welfare patients; correct.
Q. Prior to coming into the jail?
A. Correct.
Q. Is the infirmary referred to as something different in the health unit? Or is that kind of another word for the health unit?
A. It is kind of confusing. And I don't blame you. We have transitioned our lingo. In terms of as we continue to try to improve what we do a part of it does come down to what you call things. For example -- and I don't mean to give you too long of an explanation. But hopefully it is clear. Our medication room, when we moved in had a plaque that said "pharmacy" on it. It is not a pharmacy. We don't have a pharmacist on site. So we recently got a plaque that says

"medication room." What was called the "infirmary" was a word put together by the people who built the facility.
Q. Architects?
A. Absolutely. And so when we moved in -- it actually took -- you know, when you live with it you don't think about it. When NCCHC came out to talk with us -- no, it wasn't even NCCHC. I believe it was Jen Epp, who works for CMS. But she was one of our NCCHC reviewers. She said, "You guys don't have an infirmary, because you don't have a nurse there 24/7." So by NCCHC standards it is technically not an infirmary. So at that point we stopped calling it "infirmary" and started calling it "medical housing." Medical housing includes the north side, which houses our men. And our south side, which houses our females. That is technically medical housing. Although, anything that talks about health services housing may also include our transition dorms. Which at first were the mental health dorms. But when we decided it would be helpful and useful to use those dorms for medical folks, as well, we stopped calling them mental health dorms and started calling them transition

dorms. Because we recognized we could actually benefit both our medical and mental population by housing them in those transition dorms. I know it is the long explanation, but that is how we got to where we are.
Q. Are all of the rooms in the Health Services Unit equipped with cameras?
A. No. I don't believe so. No, we don't -- wait a minute. That's a good question.
Q. Thanks.
A. Because I'm thinking on Vicon, which is our video system, we had to think about actually where the toilets are in the cell and privacy issues. Oh, I should know the answer to that and I don't.
Q. Inmates that are determined to be at risk for suicide that are housed in the Health Services Unit, they are observed constantly; aren't they?
A. Again, depending on the level of risk.
Q. Let's say high-risk.
A. What that high-risk designation requires is 5-minute well-being checks. Even if there were a camera in a cell I can't tell you that the deputy sits there and watches the camera

all of the time. By any kind of jail standards, direct supervision, a camera is not the best way to provide direct supervision. So our deputies provided 15-minute well-being checks. But I do believe some cells are observed on camera. I'm just not sure that every cell is.

Q. All of the ones used for suicide risk patients would have a camera in them?

A. Depends on the level. There are times when -- if someone is housed on an orange suicide status, so they may have been at risk, or a higher risk, and then they are telling us they are not going to hurt themselves, but you kind of want to observe them a little longer, they may not be in a camera cell. So that someone at a higher risk is in that camera cell. But I have to go back and check to see if we have cameras in every cell or not.

Q. You mentioned that if somebody is saying they are not thinking about suicide anymore, you kind of drop them down, I think is what you said, to an orange.

What kind of documentation has to take place for that to happen?

A. When you say "what kind." Do you mean

by whom? Or what does it need to include?

Q. Both.

A. The providers, both the medical providers and mental health providers, in this case I'm including the mental health providers, would need to interview that patient and have a clinical assessment that determines that that person is not at imminent risk at hurting themselves. And then they would document that information in the chart.

Q. If they are taken completely off suicide watch is the documentation any different than what Mr. Johnson did on September 29 of '08?

A. The documentation would be different in that there would be a flow of information. So what you would see when you would look at the chart, we would like to say you want the chart to tell a story as much as possible. So you see the flow of information of why they were on yellow at first. You would see the information about those interactions. Then you would see the progressive improvement of that patient. And then the final chart note may be pretty concise, because it is in the context of these other chart notes, as well. So I can't tell you exactly if it would be

indicative, because it is a different scenario.

Q. So what appears in Exhibit E on page 124 at the top here --

A. Yes.

Q. -- I think we refer to this as the sick call record?

A. Correct. And it does say "Sick Calls" at the top to help clarify for the record.

Q. And then Mr. Johnson wrote some words there. Made a record.

A. Correct.

Q. And is this what you would expect from Mr. Johnson as your employee and social worker in the jail in terms of what he would be documenting in order to take somebody off suicide watch?

MR. DICKINSON: Object to characterization. But if you can answer.

THE WITNESS: Well, it is an entirely different kind of note. In that, again, someone being taken off suicide watch is going to have a progression of information that helps give you part of the big picture. This is kind of a one-shot picture. So they're different animals. It is kind of like comparing apples to oranges.

Q. (BY MR. OVERSON) Did you ever find any

documentation -- like you are talking about this -- what do you call it? What do you call that documentation that is used in order to take somebody off suicide watch? Is there a term for it?

A. A chart note based upon inmate interaction. Whether it be an assessment or an evaluation. Those are some bigger words. Some kind of inmate interaction. A sick call. If you look at this.

Q. Did you see any of that in Mr. Munroe's records?

A. See any of what?

Q. Any of the type of documentation that you are talking about that is required in order to take an inmate off of suicide watch?

MR. DICKINSON: Object again to characterization. And factual basis. She can answer, if you can.

THE WITNESS: So there is a difference -- so what I'm talking about. There is also a logistical difference. As I understand it, Mr. Munroe was observed in our booking area for various reasons the night he came in. And then Jim saw him the next morning. So it is a

different process than if he were someone who were housed in medical housing and been observed over a period of time. If that makes sense.

Q. (BY MR. OVERSON) You would expect the documentation to look different if he was on suicide watch and then removed?

A. Well, in this case Jim Johnson only saw him one time. The next morning. So he was not -- again, if someone is discharged from medical housing the expectation is that they are observed multiple times over a period of a couple of days. So that is the different animal part.

Q. Are inmates ever put on suicide watch and then held in the booking area? If you know.

A. You know, I'm trying to think about specifics. I want to say when I was working as a social worker there were absolutely times when we had ran out of room and people were housed in booking. Because in booking there is higher level of observation than other areas of the jail. There is always booking officers right there. So during my employment in the jail I have seen people on suicide watch in booking when it was determined that there wasn't a safer place for them. Because of the level of

observation they have in the booking area.

Q. They do 15-minute well-being checks there; don't they?

A. I can't tell you if they do 15-minute well-being checks specifically. My guess is if someone had determined that they had to be there for suicide watch they would do 15-minute well-being checks. I don't know if they do that by matter of course.

Q. As a matter of policy, if a roommate reported a medical or a mental health issue, that information had to be accepted as bona fide?

A. I'm sorry, repeat the question.

Q. Do you know what the term "bona fide" means?

A. Yes.

Q. Under the policies of the Ada County Jail that were applicable under the SOP's for the Health Services Unit, when information is provided relating to an inmate -- or provided by the inmate relating to their medical or mental health status or needs, that that would have to be accepted as bona fide?

A. I don't know that that is stated in our -- it may be. It doesn't ring a bell. That

exact statement. And the reason I say that is we receive a lot of information that is important for us to question. We have a lot of inmates who come into custody who say they have not used recently. They have not been to the hospital recently. And it is in our best interest to question that. And to also think outside of the box. So it's almost dangerous for us to take what the inmate says at face value.

Q. If they report that they are having a heart attack you have to take that at face value; don't you?

A. Well, we take their information of their symptoms at face value. At the same time we get so many patients who really present with symptoms for a secondary gain. We have a lot of people who say they are having seizures because they like Ativan.

Q. Malingerers and manipulators?

A. We also want to be careful with that word, because we don't want to assume anyone is malingering or manipulating. So we do need to keep an open mind when we do those assessments And that is why we hear what they are saying. But we also need to use our clinical skills to

look at how they look. Look at how they are presenting. Our provider had a call the other night and an inmate said he was having a heart attack. And the nurse reported after Megan asked the questions that he was not sweating profusely. He didn't present with any of the objective symptoms of a heart attack.

Q. I understand. Can we go ahead and mark that.

(Exhibit YY marked.)

Q. (BY MR. OVERSON) You would agree that the bottom portion of that document -- well, first of all, J-G-03 was the policy in place that was applicable to the Health Services Unit at the jail in August, September '08?

A. Yes. If I can add a --

Q. Another proviso. Go ahead.

A. We actually took the infirmary care standard operating procedure out of our standard operating procedures when we updated. Because technically we don't have an infirmary. Because we don't have nursing coverage 24/7. So we only manage those patients that we can manage with nurses as needed. Just to add that to the record.

Q. Yeah, I understood from the prior testimony the infirmary care portion of the policy title or whatever is probably inaccurate.
A. Correct.
Q. But the substance of the policy was in place in August, September of '08?
A. It was in place. Correct. I'm not as familiar with this policy offhand.
Q. And you would agree that at the bottom it says, "Information will be regarded as bona fide if it is received from the inmate, the arresting officer"?
A. Yes. Which, in my opinion, is an odd statement.
Q. Yeah. It is not worded very well. I know. Let's go off the record.
(Noon recess.)
(Exhibit ZZ marked.)
Q. (BY MR. OVERSON) You have been handed Exhibit ZZ. We talked about the NCCHC accreditation and all of that earlier.
This appears to be the 2004 survey report?
A. Yes.
Q. And have you read through this before?

Does this look familiar?
A. I have not recently. But I have; yes.
Q. So you were aware that NCCHC had identified several essential standards that were in partial compliance?
A. That sounds familiar.
MR. DICKINSON: And, Darwin, I just want to make a record. And we may disagree with what the court ruled. And maybe the court didn't rule completely.
MR. OVERSON: Yeah. I think --
MR. DICKINSON: I think the judge --
MR. OVERSON: We may hear more about it later.
MR. DICKINSON: Yes. When we were last in court the judge was leaning at least, and closer probably from our perspective than yours, closer to definitive. But, anyway, we talked about the NCCHC motion in limine and the standards and testimony about it would not come in. However, this is discovery. And so the only objection when you go down this line is that we stand by our motion in limine. We are certainly not waving our opposition as to the relevancy of the NCCHC. But this is discovery. So go ahead.

But I want to make a record of that.
Q. (BY MR. OVERSON) Okay. So you have turned to Bates stamp 14?
A. Yes.
Q. And, let's see here, it identifies Continuous Quality Improvement Program as one of the Essential Standards in Partial Compliance and Requiring Corrective Action.
Do you see that?
A. Yes.
Q. What steps did you take to bring the jail into compliance with that requirement?
A. A couple of things. We integrated a continuous quality improvement meeting into our weekly lead meetings. Every week our senior people get together and talk about what is going on that week and what the relevant issues are that we need to discuss. So the first lead team meeting of every month is a CQI meeting where we review hospitalizations. We review emergency responses. We talk about things we want to look at for our process and outcome studies. We are completing our process and outcome studies in compliance with the standards. In 2010, we have two process studies. Two outcome studies. And,

actually, even more above and beyond that to meet the standards. Again, historically, since 2008, we are constantly looking at what we can do better. But we put into place kind of a structure, I guess, that supports being in compliance.
Q. And your answer, would it cover the period of when you first started as the health services administrator to --
A. In 2008?
Q. Yes. January '08 to September '08.
A. The piece that meets the requirement is having the meetings. Talking about what we can do better. Talking about our processes. And looking at constantly improving. What I don't remember in 2008 is if we met the structure requirements of those outcome and process studies.
Q. And is there documentation of those efforts in those meetings?
A. Yes.
Q. The next one is Pharmacy Operations.
A. Yep.
Q. And I'm going to kind of narrow all of my questions to the period after you started in

your role in January of '08 through the death of Mr. Munroe.

A. Okay.

Q. So Pharmacy Operations. When you took over what did you do to bring the jail into compliance with that standard?

A. There is a couple things. I believe it was 2008 we created a pharmacy charge nurse position so that there would be someone -- and now we call it medication room -- who could provide oversight to those processes. And it is someone who is scheduled to work in the medication room on the line, but at the same time provide oversight. And really provide that detailed -- attention of detail that is necessary in the med room. So we instituted a charge nurse position for that specific area who only works in that specific area.

We also -- well, and I'm trying to think if it was in 2008 or 2009. But we stopped prepouring medications. Which means that prior to the change our nurses would take our patients medications from the bubble pack. Punch it into packets. And then take the packets out to the inmates. The Board of Pharmacy was okay with it.

They said it is not ideal. But considering our setting it was acceptable. Our concern was there is too many opportunities for error and we wanted to reduce them. It was not dictated by the Board of Pharmacy, but we were looking at best practice. It seemed to us that it made more sense to cut down on that. So we asked our nurses to change how they deliver medication. And so they did stop prepouring meds. Which means that now they take their medication carts out to the inmate and they take the bubble packs in front of the inmate and pop it out into a cup and give it to the inmate. So another example of improving the pharmacy standards. Or pharmacy operations.

We instituted a medication evaluation form where anytime now an inmate brings in the medication that is their own personal medication --

Q. And we are talking about the period --

A. I'm wondering. I don't know that we had it before the end of September 2008. So probably not before that time. So at this point -- let me back up and just make sure I stay in that time frame.

I would say probably the biggest ones are instituting that charge nurse position and the stopping of the prepouring of medications.

Q. Was there any requirement in place that the inmate confirmed by initialing or signing a document saying that they had received or refused their medication?

A. That sounds familiar. And I don't know if it is from the Jail and Court Services Standard Operating Procedures or Health Services Operating Procedure. If I remember correctly, there was some requirement that really dated back to the practice of the deputies passing the medications so that they had that documentation. And my understanding, if my recollection is correct, is that that went away when the nurses started passing medications. And then the nurses would document whether or not the inmate got their medication. Because we obtain all of that information in the electronic medical record.

Q. And it is not possible for there to be a signature or an initial from the inmate in the electronic record? It is not set up that way?

A. At this point it is not set up that way; correct.

Q. Then what about health assessments? What did you do to try to bring the jail in compliance with that standard?

A. Oh, we have tried many different things from utilizing --

Q. You mentioned Ricky --

A. Rick Steinberg. He actually came on board before I became the administrator. So the previous administrator had tried utilizing a contract person trying to bring us up to compliance. Really, most recently, it has been about making it the priority and just setting that expectation. There are so many expectations, I guess, that we have on our staff that one thing I have learned is it is really clear to prioritize those expectations. And what absolutely needs to be done before you do the next thing. So, really, currently, it is just making an expectation from the nurses that before you do this other stuff you need to get the health assessment done.

Q. And the interaction that Mr. Johnson had with Bradley on September 1 of 2008 --

A. That would be the first one?

Q. Yes. Is it your testimony that that

would qualify as a health assessment that would meet the standards?

MR. DICKINSON: Object. Mischaracterizes. But go ahead and answer, if you can.

THE WITNESS: I think in this case one of the most important pieces is whether or not Mr. Munroe received mental health services. And I think actually by Mr. Munroe seeing a mental health person, rather than a nurse during the health assessment, he probably received actually a greater level of service by seeing a clinical social worker, and talking about his mental health needs with the clinical social worker, rather than a nurse. So in terms of meeting the assessment, I think there is a piece of it -- we are talking about the mental health piece. And I think talking with Jim about what is going on rather than a nurse probably exceeds that expectation of NCCHC to get in early and talk about what is going on with someone.

Q. (BY MR. OVERSON) So the answer is "yes"?

A. Ask the question again, if you don't mind.

(Record read.)

MR. DICKINSON: Objection. Asked and answered.

THE WITNESS: I would say once again -- I don't know if it is a "yes" or "no" answer. And so I guess I don't need to restate what I just said. I can just refer to my previous statement as my answer.

Q. (BY MR. OVERSON) During the health assessment that is required by the standard and set forth in Ada County Sheriff's policy, that would include a physical examination, as well?

A. Depending on the needs of the inmate. The physical exam as I understand it in the standards -- oh, actually, new standards came out -- the new standards came out in 2008, I believe.

Q. And you were operating under '03, I believe.

A. Sorry? They came out in -- I think the updated standards are 2008, though. So, in any case, my understanding is the hands-on physical assessment part, the detail of it is dependent upon the physical state of the inmate. So someone who is young and in relatively good

health would not receive a full physical like we think of it as we would go to our doctor.

Q. I asked you about the September 1 interaction between Mr. Munroe and James Johnson in terms of whether or not that would meet the health assessment standard. Let me ask you the same question with regard to his interaction with Mr. Munroe on the 29th.

Would your testimony be the same?

MR. DICKINSON: Object. Vague. But go ahead, if you can answer.

THE WITNESS: I think very similar when you look at the purpose of that 14-day health assessment is to elicit any information from an inmate/patient that would be helpful in providing treatment. Are there any issues that need to be addressed? And so Jim having a conversation with Mr. Munroe, and inquiring about his needs -- you know, the basic reason for the existence of NCCHC is to meet the needs. Having that contact and having that conversation I believe fills that need.

Q. (BY MR. OVERSON) As a social worker conducting assessments in the jail it comes to your attention that the individual has had a

hospitalization for a suicide attempt within the past two weeks, that he has tried to commit suicide by overdose, that he has tried to commit suicide by cutting his wrists, that he tried to commit suicide by jumping off of a bridge, as a professional would you look at the scar on his arm?

MR. DICKINSON: Object. Compound. Vague. Assumes facts not in evidence.

THE WITNESS: And, honestly, I don't know how many times I have asked to look at a scar.

MR. DICKINSON: But go ahead and answer.

THE WITNESS: I'm sorry. I answered too quickly.

Q. (BY MR. OVERSON) Would that be an important piece of information for you? The severity of the scar or the severity of the attempt?

A. You know --

MR. DICKINSON: Same objections. Go ahead.

THE WITNESS: Again, if the patient is telling me that they tried cutting their wrists,

and that they jumped off a bridge, and this and that, I would take all of that information into my assessment. I don't know that looking at the wrist would add to it.

Q. (BY MR. OVERSON) Now, my understanding is that in November 2008 the NCCHC withdrew accreditation for the jail.

A. Yes.

Q. And their reason for doing so is that in August of '08 their surveyors, Jen Epp and David Wilcox, showed up at the jail?

A. Yes.

Q. And were unable to complete the survey?

A. Yes.

Q. And the reason they were unable to complete the survey was because the jail was not prepared?

A. Correct.

Q. Can you tell me in what regard the jail was not prepared for the surveying?

A. One of the most, I think, important points that we didn't even realize existed until after the fact was that because the NCCHC accreditation visit had been postponed a year, there was a critical --

Q. Let me stop you there just for my own clarification.

A. Yes.

Q. So the survey was scheduled for August of '08. But there was a prescheduling? It was previously scheduled for sometime in '07?

A. I don't know that it was actually scheduled in '07. Their routine inspections for facilities that are accredited is a three-year rotation. So we were due for an accreditation visit in 2007. At that time when they contacted us about coming out the captain at the time suggested that they wait until we moved into our new health services facility suggesting that, you know, we were in the process of moving and they should come out and see the new physical plant. So if they could wait a year it would be a much different facility.

Q. Go ahead.

A. So during that time period between the original date that they were supposed to come out, and the date that they did, a critical piece of information got, for lack of a better word, lost in the shuffle. When they come out to visit a site they send a piece of paper that says these

are the documents we want you to have ready when we come out. And it's a long single space list of things they want. I didn't have that list. I didn't know it existed. So I didn't know to ask for it. So our preparation was looking at all of their standards and having pieces in place for them. But we literally were not prepared in that when they came out that they expected items 1 through 53 lined up in a folder. And they literally weren't. Because we didn't know that that was an expectation. I didn't realize that until after we got scheduled for this last visit, and saw this, and thought, "That's how you prepare. They actually give you a list." Literally didn't have it.

The other piece is I actually met with our executive staff before their coming out and told them I didn't think we were going to pass. Because NCCHC requires some real structure to how systems run that Derek Voss, being the administrator offsite, I don't think, made it a priority to institute. Because he was looking at the practice of delivering health care. Not at the -- I want to say infrastructure. But I mean it more in a superficial way.

One of the examples are NCCHC requires that we have a chronic care clinic to meet the chronic health care needs of our patients. Well, we have always monitored the chronic health care needs of our patients. But one thing we did not do, because, again, our focus was on improving the entire system, and wasn't in place to their satisfaction was, have our lists of the chronic care patients by category in a binder that you can pull at any time. And have it very formalized. So the formalized tracking wasn't in place for some various pieces of the puzzle. The practice was there, but we couldn't show it. And those pieces hadn't been put in place. So I knew probably back in February that we could not go back and cut and paste things together to make it look good for NCCHC. And the last thing I wante to do was cut and paste anything or put bandages on. The goal is to find sustainable solutions. And so we knew that some of those pieces weren't in place before they came out.

The other piece is we had a jail doctor, who is a wonderful doctor. But at the same time his focus was not on building that structure or that infrastructure. He was great

at complicated patients and making sure that people were seen. But in terms of how the medical care was formatted wasn't in line with NCCHC's expectations, also.

Q. So documentation was one of the areas that was not being done to the satisfaction of NCCHC standards?

A. Well, documentation is -- when I think of documentation I think of patient documentation and chart notes in terms of patient care. In terms of documentation, for the purpose of this discussion right now, to me, I'm talking more about the framework piece. You know, calling it a chronic care clinic and putting it in a particular format. Or calling it this or that and putting it in a particular format.

Q. I have looked through the evaluation forms, for lack of a better word, for Mr. Johnson. And one of the areas he identified as being an area that he could improve upon was adding patients to the chronic care list.

Is that what you are talking about is that type of --

A. Yes. There is a piece of -- we know we see them. But we need to make sure that

they're -- sorry. I'm motioning. So we know we need to add the patients to this formal list. But -- well, let me back up. We know that the chronic care patients need to be seen and followed up. That is different from actually taking their name and going, "Oh, I need to put them on the chronic care list." And so to fix that we actually have our admin staff helping us now. So our social workers just have to -- they have a list on the wall, and they physically add it, and then our admin people get into the system. So we have a formalized list of the chronic care patients. And so even the identification of them is highlighted. So when we talk about adding them it is to a formal list.

Q. But before you put that in place you knew who the chronic care patients were?

A. Interestingly enough, when you work in a jail, and you have a small team, you knew who the chronic care patients are. When I worked by myself I still maintained, you know, kind of a list of who the chronic care patients were. But whenever I put it together it was just off the top of my head. I knew who they were. Because they were the people that I knew needed to be

there. So it didn't come from anywhere else. It came from the social workers' awareness.

Q. Chronic care patients, who would they be? How would you identify a chronic care patient at the jail during that period?

A. The way that I would say our team thinks of the chronic care patients are those with a severe, persistent mental illness. Generally, the ones that are more complicated. And who present as unstable. So they come to our radar that we need to follow this person and help stabilize them out. Help make sure they get back to baseline functioning. They are the folks that we don't want to fall through the cracks. That we want to make sure we continue to follow them. Because we have seen them either at their worst, or unstable, or somehow else coming into our radar that they really require that ongoing attention.

Q. Would somebody with serious depression qualify?

A. Not necessarily. A big part of it would be dependent upon if they are stable on their medication. And they're functioning okay. It may not require them to be followed by the

chronic care.

Q. And your answer would be the same for bipolar?

A. Absolutely. The way we look at it a diagnosis doesn't qualify you for the chronic care list. We get so many folks who come in from the community with diagnoses that that alone doesn't qualify anybody for the chronic care list.

Q. It's the seriousness of whatever they are dealing with?

A. Seriousness and the clinical opinion of the social workers.

Q. In conducting assessments in the mental health area, and I'm talking about specifically at the jail during that period, was there a standard or a practice in place to insure privacy during those assessments? And by "privacy" I mean between the social worker and the inmate?

A. Sure. As a social worker we are really well-versed on the importance of creating rapport with your patient. Even in those first interviews starting to build a relationship. In our jail setting we know there is also necessity that privacy to be set by space. Meaning, there

have been times as a social worker I needed to see a patient in the hallway of the old medical clinic. And there was nowhere else for me to go. So we would kind of face the wall. You know, not face other people. And create a sense of privacy through our body language and the level of our voices. So there is always that thoughtfulness of being thoughtful about who is around you. Who can hear your conversation.

There is even times when the deputies are a necessary function of what we do. And they are kind of always around. But we'll often have to explain to the patient why the deputy is around or why they are there. Depending on the circumstance. But creating that sense of privacy is a piece of the interviews that we do.

Q. Correct me if I'm wrong. But part of that is to try to get the inmate to open up and tell you what they're experiencing mentally and emotionally?

A. Yes.

Q. In this particular case on the 29th of September 2008 when Mr. Johnson spoke with Mr. Munroe, Deputy Wroblewski was fingerprinting him. Johnson spoke to him during the finger-

printing process. So the two of them were there. Is that your understanding?

A. Yes.

Q. And he spoke to him for approximately four minutes. Do you see anything wrong with that in terms of the privacy issues that you have just discussed?

A. Having been in that position. Called down to booking. Asked to see people. I think there is a piece of that that actually is very normal for the setting in that it almost feels less threatening. The deputy is fingerprinting. You are having that conversation. There is a piece of that that feels less threatening to someone. There is that -- how can I say it? There is an approach to these kinds of interviews where so much of it is where we are looking at the patient. We are looking at how they interact with people. How they function as a whole. And so to be able to see them interact in that setting is helpful to the mental status exam. And then being able to have that conversation as quickly as possible in the process. Understanding that it sounds like in this case they wanted to make sure that Jim talked with

Mr. Munroe before he was housed. Which is why Jim came to booking, is part of my understanding and saw him. So the expediency of the interview is also something we take into consideration in terms of not taking Mr. Munroe to another place for the interview. Maybe not having other options. I don't know at that time. So we do take into account the expediency, the mental status exam, observing him in a regular type activity. So there is a couple of pieces that is actually helpful to the process. So I'm not thrown off by that.

Q. You are not troubled by that at all?

A. No.

Q. Would your answer be the same if the inmate refuses to cooperate and answer questions in that setting?

A. It depends on what the inmate looks like. It depends on my previous interactions with that patient. I have had plenty of people who didn't want to talk to me. And so depending on how they looked to me. And the history that I understand is to be correct. There is plenty of people that I don't force into a conversation if they don't want to talk with me. They have a

right to refuse mental health services. And very often a deputy is standing by. Even in private conversations the deputies are there. So the deputy being there would not be something that I would be concerned about.

Q. Even though you know inmates are less likely to open up and talk about their problems when a deputy is standing there?

MR. DICKINSON: Object. Assumes facts not in evidence. Calls for speculation. But to the extent you can answer, please do.

THE WITNESS: I have worked in jails now for a long time. In a correctional setting probably at least 12 years or so. And really an integral part of a correctional setting are the deputies. Sometimes I call it a necessary evil. They are there whether we like it or not. You know, you can talk about what is ideal for an evaluation in a different kind of setting. In a community clinic. Or a hospital. The reality is we are in jail. And so those deputies are ever present. And one thing I don't want to do is give the inmate a false sense of security when there is deputies standing by. And so we do take them into the equation. And we still try to make

them feel as comfortable as possible. And take those steps. Whether it's body language or space to help promote that feeling of being comfortable. But in the jail setting those deputies are almost always there.

Q. (BY MR. OVERSON) In the circumstances of this case, as you understand it, in terms of when Mr. Johnson spoke to Mr. Munroe on the 29th of September 2008 does it concern you at all that Mr. Munroe was intoxicated while he spoke to him?

MR. DICKINSON: Objection. Calls for speculation. Assumes facts not.

THE WITNESS: I'll speculate. As I understand it, it sounds like he was intoxicated or under the influence of some kind of substance the night before. My understanding is that by the time he was being fingerprinted, and Jim was talking with him, that he did not appear impaired or being under the influence of a substance. It sounds like he really had this kind of extreme behavior the night before. And then my understanding is that next morning he looked -- he was walking, talking, being appropriate. And we see that so often. People coming in under the influence of something. The next morning they

are a lot more clear. We fingerprint them in. We do an evaluation. And it is an entirely different scenario.

Q. (BY MR. OVERSON) If he was intoxicated, if you make that assumption under the facts as you have just stated them in terms of, you know, the deputy is there fingerprinting him, Mr. Johnson is there observing him and interacting with him, and Mr. Munroe says, "I don't want medical service. I'm fine." If we add to that equation that Mr. Munroe is intoxicated do you have any problem with the deputy being there and Mr. Johnson going forward with his interaction to assess Mr. Munroe's status?

MR. DICKINSON: Object. Vague. Compound. Calls for speculation. Assumes facts not in evidence. But answer, if you can.

THE WITNESS: I guess a big part of it would be dependent upon the level of intoxication. We get people into the jail with a .40 blood alcohol level that can walk, talk, and carry on a perfectly good conversation with you. And they are not ideal. If they appear coherent, and they are okay to answer questions, it is

probably a reasonable discussion. We just talked yesterday, and this is a funny coincidence, with our physician about accepting people who are intoxicated into the jail. And it used to be that we used a .29 BAC as a cutoff. If anyone had a blood alcohol level higher than that we would send them automatically to the hospital. And we are looking at changing that. Because if someone can walk, talk, eat, and be pretty coherent they may not require that triaging before they come in. So that piece is probably too vague for me to be able to answer the question.

Q. (BY MR. OVERSON) So the same question. Let's have the factor that the individual is aggravated. Are you still okay with the way Mr. Johnson proceeded?

MR. DICKINSON: Same objections.

THE WITNESS: Keeping in mind that a lot of people coming into the jail are aggravated. Most people aren't happy coming to jail. That is usually a piece of what we have to take into account when we do those intake evaluations.

The other piece is that is why we have

a lot of other safety nets in jail. If we start to force someone to talk to us we are not going to get good information, anyways. So then we rely on our deputies' eyes and ears to make referrals. We do rely on self-referrals after the fact. If somebody changed their mind and wanted to talk to us, they have the opportunity to do that. So there is a lot of other safety nets that come into effect after the fact.

Q. (BY MR. OVERSON) Are you aware of any policy that existed in August, September 2008 at the Ada County Jail that required the staff to get a signed refusal from the inmate when they were refusing medical treatment?

A. I know that there is a policy. I can't tell you what it says word by word. But there is something about refusing medical treatment.

Q. And you swore on an affidavit and said you reviewed the medical records with Mr. Munroe at the jail. You didn't see a refusal form signed by Mr. Munroe; did you?

A. No. My understanding is that, though, when he didn't want to speak with Jim it wasn't a refusal of medical treatment, per se. There wasn't a treatment started that he stopped. The

refusal form is used to put it in perspective. If someone is taking a medication that they had been taking for three years, and they say they don't want to take it anymore, we need to make sure that we talk with them about the risks and the benefits of stopping. And that they sign a refusal and put that into the chart. We get many patients who don't want to talk to us or say, "Oh, there is no need for services right now." Those folks we generally don't have sign a refusal. Because it is within their right to refuse.

(Exhibit AAA marked.)

Q. (BY MR. OVERSON) You have been handed Exhibit AAA. And we were provided this piece of paper in discovery.

My question to you is, do you know what it is?

A. Yes.

Q. What is it?

A. It did stem from conversations with our NCCHC surveyors. National Commission of Correctional Health Care surveyors. When they came out Jen Epp, the lead surveyor, was nice enough to sit down and talk to us about items

that -- not even necessarily were matched with an NCCHC compliance. Which is items she thought we can look at doing to improve our system. And so we all took note and compiled it into essentially a "to do" list. Things to be aware of. To be able to implement. And so this is our informal kind of take away from our informal conversations with the NCCHC surveyors.

Q. And that would have been in August?

A. I believe so.

Q. It looks like they have been prioritized. So there is one, two, three.

A. And we did that; yes.

Q. And then you assigned people to lead up the project of making the individual items happen?

A. Yes.

Q. And on a number of them -- for instance, Leslie. I imagine that is Leslie Robertson?

A. Yes.

Q. "Information form for outside appointments. Done. Implemented 12-1." Then there is others that say "In Process." And then there are others that are blank.

A. Yes.

Q. Do you know why they are blank?

A. Yes. This was our user-friendly kind of guideline. I tend to start lists. And then when I get close to completing them I realize this is very cumbersome to hold onto. What is our next piece? What are our next goals? And so because this is for my purposes, when we had so many things done, and there was few things left, I really don't have a need for this anymore. It is about moving onto the next things that need to be done. For example, development of a resource guide. We have one in place. It doesn't say done on there. But we have one. Informed consent form. We absolutely utilize it when we need to. Emergency response plan and documentation is currently in place. There is nothing under daily checks and documentation on negative airflow rooms, because that was a suggestion by the doctor who came on-site. When we talked with our engineer experts they said there is no way you need daily checks on your negative air pressure rooms. So we didn't do anything with that one.

So there is pieces on there that just

weren't --

Q. Okay.

A. It wasn't necessary that it be documented that they were done, because we knew they were done.

Q. Are you familiar at all with the form that the booking deputies fill out when they are in the process of releasing an inmate? And the form I'm talking about is the one used to document their property that they are releasing.

A. I'm not as familiar with that form. If you have it I might recognize it. But I can't say.

(Exhibit BBB marked.)

Q. (BY MR. OVERSON) If you turn to page 126 of Exhibit BBB. Does that form look familiar?

A. It is vaguely familiar. It is not one that I work with personally.

Q. We had talked about medication. The policy in terms of how much medication an inmate is supposed to have. At least from the jail. And I think you said you just simply couldn't remember?

A. You had asked specifically if our

policy stated that they get ten days' worth. And I can't remember the details of that time frame for our policy.

Q. But it would be more than one pill?

A. I don't know. I simply do not remember what it stated at that time. One thing we are trying to implement right now is to ensure that people have that continuity of care. We have talked about implementing a system whereby someone can take a card to a pharmacy and that pharmacy can call us and verify that they are taking medications to facilitate the continuity of care. So it is really something we looked at very closely. Which is why unfortunately it muddles my recollection of the exact policy in 2008.

(Exhibit CCC marked.)

Q. (BY MR. OVERSON) Do you recognize Exhibit CCC?

A. Yes.

Q. And what do you recognize it as?

A. It is the medication administration training standard operating procedure from the SOP's that were in place in 2008.

Q. And prior to Mr. Munroe's death? Or at

the time of Mr. Munroe's death?

A. Yes.

Q. What I'm wondering about is it says, "Training will encompass matters of security concerns, accountability for administering medications timely manner according to the physicians orders, recording the administration of medications and common side effects of specific medications."

Did I read that correctly?

A. You did. But to put it in perspective the sentence before says, "All detention officers who administer or who are likely to administer medications to inmates are required to receive such training." So this is one of those policies that our practice got better and that detention officers no longer passed meds. But the policy didn't change. So this still references detention officers.

Q. Recognizing that the duty went over to health services staff was the policy valid with that exception? I mean, could we read all health services staff who administer or who are likely to administer the medication are going to receive this training?

A. To put it in context. When we talked to Jen Epp, who was, again, our surveyor. We've consulted with her over time. Her take on this policy is that whenever you have a nurse administering medications, NCCHC is very comfortable with the understanding that they have learned how to administer medications in nursing school. So our responsibility is to offer the security concerns piece. And all of our nurses get that through - it is called Con Games training. Which is an ideal name. But it teaches you about the security concerns.

Q. What about the common side effects of specific medications? What is that referring to?

A. I'm not sure what you mean by that.

Q. It is the last phrase of the last paragraph.

A. Right. And as I had just mentioned Jen Epp related to us that her feeling that all of the medical training piece on administering medication is something that is taught in nursing school. With that being said, we have had Lunch-And-Learns on the side effects of medication that our nursing supervisor has taught our nurses. We have had trainings on

administering medications. However, again, any nurse that comes to us, the understanding is that they have had training in medications and all of that is encompassed in nursing school.

Q. What about social workers? Is there any training for them in terms of the common side effects of specific medications?

A. You mean in school? Or at our facility?

Q. Either one. I mean, they don't really teach you medicine in social work school, do they?

A. There is a piece of -- and, actually, I was a -- my concentration in social work was health. So I actually, probably got more training in medical issues than maybe other social workers did. So there certainly is a component of medical care inherent in social work. Social workers are trained to look for anything out of the ordinary. We are trained to look for anything that doesn't match up to your normal affect. You know, is your affect congruent with your mood? Is there any psychomotor retardation? And psychomotor agitation? Is your thought content appropriate.

So we may not recognize it right offhand as a side effect issue, per se. Or an organic issue. Or a substance abuse issue. Our job is to do that assessment and recognize that there is something out of the ordinary. And do the best we can to refer on that issue.

Q. Was Celexa distributed frequently in the jail to inmates with depression?

A. That I don't know.

Q. What about Perphenazine to inmates who suffered from psychosis?

A. From my own experience I do not see Perphenazine a whole lot in the jail setting.

Q. Was there any training in the jail in terms of -- for the social workers in terms of risks associated with some medications associated with suicidality?

A. I don't remember if we had a specific training. Back to social workers, in general. Our training focuses on looking for symptoms. Looking for signs. Looking for anything out of the ordinary. So whether it comes from a medication side effect. Or a life situation. Or a trigger from court. We are always looking for those things that look out of the ordinary. And

that is where the training lies.

Q. Celexa has been identified by the FDA as having certain risks associated with suicidality. And has required that the marketers of that medication include warning that individuals who have recently gone off having their medication adjusted, or had recently started the medication, that they be observed because of the additional risk during that time period for suicidal thoughts and behaviors.

Was there any training with regard to that specific aspect of Celexa or a similar medication?

A. There wasn't.

MR. DICKINSON: Object. Compound. Lack of foundation with this witness. Calls for speculation. Given that, you can answer, if you can.

THE WITNESS: There wasn't. And we utilize so many medications, and so many of them have very serious side effects stemming from the minor to the very major medical ones that, again, what we wouldn't want to do is distract from specific details. And so rather we focus on training on, again, looking for the signs and

symptoms that would be the potential for a side effect. What I can't tell you is our medical providers knowledge of the side effect potentials of the different medications.

(Exhibit DDD marked.)

Q. (BY MR. OVERSON) Have you seen Exhibit DDD before?

A. Yes.

Q. What is that?

A. It is a sign in our booking intake area.

Q. And I imagine it is to remind inmates to ask for their medication if they are being released from the jail?

A. Yes.

Q. There is other procedures in place, though, to make sure they are not released from the jail without their medications; right?

A. Yes.

Q. There is, on the medical staff side, a requirement that the medical staff place the medication in a bag and heat seal it.

A. Yes.

Q. Fill out a form. What is the name of the form?

A. I don't know the name. I would speculate. A release form or something to that extent.

Q. Attached to the bag. And have it sent over to booking.

A. Correct. They either walk it over or a deputy will come and get it.

Q. And they know which inmates to prepare such a bag and a form for, because there is a daily list of inmates who are scheduled to be released; right?

A. Yes. There are those cases of the last minute releases who aren't on that list.

Q. Of course.

A. But, generally, that is the procedure; yes.

Q. And then -- well, let me ask you a different question for a moment. You reviewed the records over at the jail relating to Mr. Munroe.

Were you able to locate that list that would possibly have Mr. Munroe's name on it as the person to be released?

A. That I didn't see. I don't know if they keep those. They might. But I don't know.

Q. Okay. Then there is also another procedure in place from the security staff side; right? To make sure the inmate gets the medication before they leave the jail?

A. I don't know what their procedure is.

Q. Let's go to Exhibit E to Lisa Farmer's deposition. If you would go to the last page of that exhibit. And, oddly enough, it has Bates stamp number two. It is entitled Health Summary Medication Release Form. We were talking about the medical staff putting medication in a bag and heat sealing it and putting a form on it.

A. Yes.

Q. Is this the form that you were referring to?

A. Yes.

Q. And the inmate is supposed to sign the form?

A. I believe so; yes.

Q. And in this case nobody has been able to locate that signature from Mr. Munroe?

A. That is my understanding.

Q. And where is that understanding? Or what is that understanding based upon?

A. My chart review.

Q. Your review of his medical records at the jail?

A. Yes.

Q. Go back one page. And let's start at the bottom. Is it Citalopram?

A. Citalopram.

Q. Celexa. Right?

A. Yes.

Q. On the 29th there is an entry, and it is not clear by whom, but Karen Barrett's name appears there.

Is she the one making that entry, do you know?

A. It states she is a clinician. I can't tell you if that means she is the one making the entry.

Q. And then across it says "discontinued."

A. Correct.

Q. What does that mean?

A. That means that that specific order was discontinued.

Q. Discontinued as in the order was placed and then it was stopped?

A. Correct. It would had to have been ordered to be discontinued.

Q. So no medication was provided pursuant to that order?

A. I don't know, actually. I would have to see the medication activity record.

Q. Go ahead.

A. Because what this looks like to me is that it was discontinued, because then we received the Citalopram from Diamond Pharmacy. Because if you look up it says, "Ran out of personal medication. Reorder 30-day supply." So it looks like they ordered that on 9-4. From at least my basic understanding of our chart notes it looks like that was discontinued, because we received the Diamond supply of Citalopram.

Q. Then those two entries above for the antipsychotic and the anti-depressant, they also say "discontinued."

A. Sure. Yes.

Q. And why would they say that?

A. For lack of a better way of saying it, when Mr. Munroe was out of custody our system automatically discontinues it. So if anyone is out of custody the status is going to be discontinued.

Q. Then on the right-hand side -- and

let's just take the top one. The Celexa. System Log. It is ordered by Cindy Callaway. Right?

A. Yes. Ordered into the system; yes.

Q. Approved by Karen?

A. Because it needs a provider approval; yes.

Q. And then canceled on the 26th at 11:50 p.m., because the inmate is released.

A. Okay.

Q. Right?

A. Um-hmm.

Q. I'm wondering how this system works. You have been pretty detailed in your description of medication distribution. The ordering side of it is still a little foggy for me.

So when the order is placed in by Cindy Callaway can you kind of walk me through what happens?

A. I'll do it the best I can not being a nurse. So taking that into account. Cindy Callaway will type into the computer -- in this case -- well, let me back up.

Q. I actually think the bottom ones are probably his personal meds that he brought in and

he ran out?
A. Exactly. So he is running out. Cindy Callaway sees that and knows we need to order medication for him. She will type in the doses into the computer with the specific instructions. But she is not a physician. She cannot order medication. Even though it says ordered it's kind of a misnomer. She is the one entering it into the computer. It goes into what is called -- it's like an approval cue where our providers will then go in and look at what medications need to be approved. And then the provider will look at it and say, "Okay. That looks reasonable. The patient came in on this medication. We want to continue them on this medication." It meets all of the standards we look at. Is the prescription a current one? Is it in the bottle it is supposed to be in? Is it mixed with any other meds? If everything looks good they will continue it. Again, my speculation is Karen Barrett looked at it and says everything matches up. So she will go in and press an approval button. At which point, and I'm not sure which way it happens, it either automatically gets sent to Diamond Pharmacy, or

it goes back to our med room and one of the nurses sends it to Diamond Pharmacy. But my guess is once Karen hits approve it is then sent to the pharmacy. And then they would fill it and send it back to us.
Q. How long does that take?
A. They do a next day delivery. If it is something that is late at night, that they can't deliver the next day, that our provider deems to be a stat medication, we'll go to Walgreens and pick it up. And then they billed Diamond Pharmacy.
Q. And the reorder on both of those medications, the antipsychotic and the Celexa that was placed, was a 30-day supply; right?
A. Yes.
Q. And then the Celexa, it looks like there was enough pills ordered to get him through October 3 of '08?
A. Correct.
Q. And the antipsychotic, there was enough to get him through September 27 of '08?
A. Correct.
Q. And you know that Mr. Munroe was released on September 26, '08 from reviewing his

records.
A. Correct.
Q. And we looked at a form earlier filled out by the deputy indicating that he was release with one of the antipsychotic?
A. Correct. And in that case our release form does include local medical providers. Because then also there is a responsibility on the side of the patient to follow up and continue their medication.
Q. So we looked at this Exhibit TT. The commissary record. So this commissary record, you would agree, is consistent with the medications records that we have been talking about here in Exhibit E to Lisa Farmer's deposition? And this is Bates stamped one.
A. Yes. So this was ordered on 8-29. And that is consistent. And these meds were ordered on 9-4. And that is consistent with that. From what I can tell; yes.
Q. And from looking at this record does it look like to you that he brought medications in and that they were all used up while he was in custody? Or can you tell?
MR. DICKINSON: Object. Speculation.

Go ahead.
THE WITNESS: I don't think I can tell by looking at this. Meds get reordered for multiple reasons. Not just to replace personal meds. So I can't tell from looking at this.
Q. (BY MR. OVERSON) Do you know if ther is a practice in place back then where they would put the medication the person brought in up on a shelf or some storage location and give them the medication while they are at the jail that the jail ordered for them?
A. Depending on the medication. One of our goals, and it is actually on one of our exhibits, is to reduce personal meds. So there is a lot of times where ideally -- let me back up. Our ideal world would include no personal meds. Because they do get complicated. And so in 2008, there were times when if we could replace a medication with our own, we would do that. And their personal meds -- it wasn't on our shelf. It was back in small property, where they would place their medication. So when they left they had their personal meds. Depending on what kind of medication it was. Depending on whether or not it was on our formulary. There

are a lot of factors that we take into account. With the biggest priority being continuity of care. It was kind of what was the quickest way to get them their medication.

Q. Let's turn back to Exhibit E of Farmer's deposition and go to the first page. Which is 120.

A. Okay.

Q. And draw your attention to October 1 of '08. Do you see that entry?

A. Yes.

Q. What does that indicate to you?

A. "Citalopram 20 mg left here in the pharmacy in bottom drawer."

Q. Can you tell from that form whether or not that is the medication that was ordered that we have just been discussing?

A. It probably is. It does mention Citalopram, 20 milligrams.

Q. Is there any way for us to determine how much medication was left in that drawer?

A. I don't see a number here. So I don't think so. Unless there is a number somewhere else in the chart.

Q. Let's take a look. You are free to

look throughout Exhibit E.

A. If there is a notation of how many pills are in there and you know that --

Q. I don't. And I'm wondering if maybe you see something I don't see. Because I'm not as familiar with these records.

A. No, I don't see a number on there.

Q. If somebody comes into the jail with -- well, in Mr. Munroe's case it was an anti-depressants and an antipsychotic.

Did you guys have a custom or a standard by which you tried to get their medications administered to them once they come into the jail? Does that make sense?

A. We always try to get people their medications as quickly as possible.

Q. Was there a standard like that day, or two days, or a week?

A. I don't know that there was a standard. I think the standard was as quick as possible. So, actually, there was a standard. It would be as timely as possible.

Q. Could there be a lag between when the inmate goes into the jail and they begin to start receiving their medication of, say, three days?

MR. DICKINSON: Object. Calls for speculation. Lack of foundation. But go ahead, if you can answer.

THE WITNESS: Three days would be longer than we would like. Usually if there was a lag time it was because our providers needed to clarify a prescription. Oftentimes our folks come in on -- we get bags of 18 different medications from six different providers in the community. So our providers needs to contact those outside prescribers and verify prescriptions and look for contraindications. So sometimes there is some necessary lag time.

Q. (BY MR. OVERSON) I'm laughing, because you just described my mother. Not in jail, though.

Let's take a look then at 128. And it is one of those where you are better off going to 129 and back up one. Do you recognize that document?

A. Yes.

Q. Mr. Munroe entered the jail on August 26. You would agree there is a three-day gap there before anybody indicates that they have given him his medication?

A. Yes.

Q. And there is only two medications involved when we talk about Mr. Munroe?

A. Correct.

Q. And you had indicated that sometimes there is a delay because of a need to talk to the provider?

A. That would be one of the reasons.

Q. And that is a provider out in the community that you are referring to?

A. Correct.

Q. Did you see any record when you did a review of Mr. Munroe's records that anybody had contacted Dr. Bushi?

A. No. As I understand it, the medications were appropriately labeled. So there wasn't any need to make an outside contact. And that would be, again, just one of the reasons why there would be delay. The medications are literally checked in by our medication room nurses into the system. And has to be checked and approved by a provider. And then put on a MedPass cart. And then sent out.

So depending on the time of the day Mr. Munroe came in. Depending on various

factors. All of those things will affect when they are on the next MedPass. And, actually, I'm trying to look. And sometimes this is misleading. Technically, if someone -- and I don't know. But if someone comes in really late on one night, and then it makes it to the first MedPass a couple days later, it is less time than it looks in the documentation, as well.

MR. DICKINSON: Counsel, I'm going to object to lack of foundation on that. And it might be my confusion. But you continue to lay the foundation that Mr. Munroe was arrested on the 26th. Would you be kind enough to double-check that.

MR. OVERSON: I'm sorry. The 28th.

THE WITNESS: So he got his meds the next day.

MR. DICKINSON: That is all.

THE WITNESS: Thank you, Jim.

MR. OVERSON: You're right. He was released on the 26th. Those are two dates that I keep struggling with.

MR. DICKINSON: I understand. That's fine.

Q. (BY MR. OVERSON) Now, I think you

indicated in an affidavit that you filed in this case that the records were confusing and you couldn't determine whether he received his medication on one of the dates.

Is that correct?

MR. DICKINSON: I am going to object to the characterization. But answer, if you can.

THE WITNESS: I'm not sure. I don't know if I would have used the word "confusing." You can show me. I just don't remember.

Q. (BY MR. OVERSON) That is my word. But is that true that from the records you couldn't determine whether he had received his medication on one of the days?

A. You know, what is interesting is I don't remember that. Though, I will tell you what is interesting is on this record, because it is black and white --

Q. You can't tell, because it is color coded?

A. Yeah.

Q. But you looked at the color-coded version; didn't you?

A. I don't know. You would think so. I mean, as I look at this I'm seeing the initials.

So, for example, on the Citalopram --

Q. I'll show you this to see if it refreshes your memory instead of marking it as an exhibit. It will be paragraph nine.

A. September 19 is when he refused Celexa. So my guess is he refused medication there. "There is no chart entry to show whether he received Perphenazine on September 12." I see a chart entry. But I wonder if it is a --

Q. If you don't know --

A. I wish I had the color-coded one. Because there is certainly an entry. And what I'm not sure about is if at the time I recognized that it said whether it meant "other." I am not sure. Because as I'm looking at it now there is an entry. So I must have been looking at something that looked different than this looks.

Q. Okay. Would you mind turning in that same exhibit to page 141. The first entry, 10-28-07, says, "JICS review. Current status, closed. Date, closed. September 29 at 10:22 a.m. by Leslie Robertson."

Do you have any idea why she would be reviewing the JICS?

A. She doesn't review JICS. She reviews

charts. And I'm laughing. Because Leslie Robertson, one of her pet peeves was JICS review being a problem. We put it on the problem list to make sure it gets done. But once the JICS review is done she wants our nurses to close it out as a problem. Because a problem should be something that we are kind of staying aware of for the patient. A JICS review was not a problem. So if this is consistent with her other behaviors she is closing out a problem, because the nurses didn't do it.

Q. We have a secretary like that. So I gotcha. Would the JICS review that she is closing out cover the entire time span between October 25, '07 through September 29, '08? Because it says, "Date opened, 10-25-07. Date closed, 9-29-08."

A. And I don't know. My guess -- my only speculation would be that he came into custody again. So it is a new chart for her. And she saw that there was a JICS review open. So she closed it. I don't know -- it does look like it was preexisting from 2007. And it would have been one of our pet peeves that a JICS review is still open. There might have been more to the

story. But it seems very reasonable that she saw an open JICS and closed it, regardless of the time frame.

MR. DICKINSON: It is 2:30. I don't know if you want to take an afternoon break or not.

MR. OVERSON: Let's just finish with this exhibit and then we'll take a break. Actually, I take that back. It looks like we can take a break.

(Recess.)

Q. (BY MR. OVERSON) If you would turn to Exhibit F of Lisa Farmer's exhibits. The page with 62 at the bottom.

A. Yes.

Q. Does that kind of refresh your memory that at least two weeks -- excuse me. I'm looking at the wrong part. Let me go off the record for a second. Sorry.

(Recess.)

Q. (BY MR. OVERSON) If you would look at Exhibit W. If you would turn to page 95. First of all, do you recognize this as the Sheriff's Office SOP's?

A. Yes. For the Jail and Court Services

Bureau.

Q. And page 95 is the beginning of the policy governing the release of inmates?

A. Yes.

Q. So if you would turn to page 98. At the top of the page. "Security staff will ensure the released inmates are in possession of at least ten days medication as per HSU staff instructions."

A. Okay.

Q. Does that refresh your memory that it is a ten day --

A. You know, again, the timeframes, I don't have a specific recall to. But I'm reading this and I see that it says that.

Q. So you would agree then that it appears from the records that Bradley Munroe was released on August 28, 2008 with less than ten days' worth of his medication?

A. Yes. It does appear so.

Q. In an affidavit you indicated that there is no local, state or federal requirement that any jail in Idaho meet NCCHC accreditation.

A. Correct.

Q. But the policies do require that? The

policies of the Ada County Sheriff's Office?

A. Does it say that we maintain accreditation? Where is that stated?

Q. Well, that was also part of your job duties; right? Your responsibilities?

A. Well, I believe our responsibility is to follow the standards set forth NCCHC. And if says in there that the requirement is that we maintain accreditation, I'm not as familiar with that standard. My understanding is it is my job to get us in compliance and to stay there. Which is what we have been doing for three years. But, again, when I came in in 2008, there is only so much we can do in that amount of time, also. I would be curious to see -- does my job description say we are required to remain accredited?

Q. That is what I was looking for. And I can't remember which exhibit it is. To Sheriff Raney's deposition. Exhibit N.

A. And where I am going?

Q. Under "Primary Job Duties: Ensures that medical programs and related documentation are maintained in such a manner that the Sheriff's NCCHC accreditation is not

jeopardized."

A. Correct. Yes, it does say that. And so to clarify. In terms of my job as an administrator, and when I came on, I absolutely functioned in that capacity. In terms of between January and August there was nothing that I did or my team did that would jeopardize NCCHC accreditation. It is a bigger process than that.

Q. But --

A. Because, in my opinion, there were pieces in place that were not there, even my assuming that position, that does not jeopardize the kind of care that we provide, as well.

Q. So do you maintain that it is purely voluntary still?

A. In terms of?

Q. The accreditation.

A. It is not required by any state or local laws in terms of our jail being accredited by NCCHC. For example, if Idaho jail standards withdrew our certification we would have to close. So that by my definition is a mandatory certification or accreditation. If we did not follow Idaho jail standards we would be closed down. And we continue to maintain our

certification by Idaho jail standards. There is nowhere that it says if we are not in compliance with NCCHC standards that our jail has to close down or that our health services division is not doing its job.

Q. But you would be in violation of the county policies as they existed in August and September of '08?

MR. DICKINSON: I object. I don't think that is a fair characterization.

THE WITNESS: Actually, as far as my involvement with our system, everything that I have done has been to ensure that our medical programs and related documentation are maintained in such a manner that the accreditation is not jeopardized. So in terms of the wording I wouldn't say that I violated policy at all. In fact, we have continued to support this --

Q. (BY MR. OVERSON) I wasn't saying you violated policy.

A. But even our division and the Sheriff's Office. As soon as it was recognized that we needed to --

Q. I understand.

A. I know. But for the record I just feel

I need to say everything we have done does move in that direction. And it does sound like there may have been some lapses in, again, that infrastructure or the structure to meet the standards. But our goal ever since I came on in January is to support those standards. For the record.

Q. Let's take a look at Exhibit W again. Page one. Do you recognize that policy?

A. It looks like it is probably from the Jail and Court Services Bureau Standard Operating Procedure.

Q. Right.

A. Yes.

Q. And that is yes, you recognize that policy?

A. Yes.

Q. And it's the policy applicable for suicide assessment and risk reduction in the jail?

A. Yes. It's interesting. It looks like it is even broader than that. They talk about people who are violent, mentally ill, intoxicated or other special problems or needs that warrant closer observation. It is not just for suicide

risk reduction. They label it high frequency, high risk, and high-risk procedures probably to encompass the broader spectrum of folks who require that.

Q. And under "Policy: Periodic training on suicide prevention and intervention is required." Page two.

A. And there is the suicide risk reduction that you were talking about. Okay. Yes. I see it.

Q. And in terms of the training. You provided jail staff some of that training? I think we talked about that previously.

A. Yes.

(Exhibit EEE marked.)

Q. (BY MR. OVERSON) Is that some of the material that you prepared and presented to the staff at the Ada County Jail regarding suicide risk?

A. Just to clarify.

Q. And take your time.

A. This is actually a couple of documents. At least two put together. The first one is Suicide Risk Reduction. That is the one I prepared. The second one titled Basic First Aid

Ada County Sheriff's Office.

Q. Can you give me the Bates number on that?

A. Thirty-two. Andy Archuleta was the person who put it together. So that is not one I put together.

Q. Is there anything else in here you put together? Or just two documents?

A. I think it is just two. But let me take a quick look. Yes.

Q. And this was given on February 4, 2008?

A. On that date; yes. And then it would have been -- I believe I did it at least once, if not more often than that. But that is certainly the date on this presentation.

Q. Do you know if Jim Johnson received this presentation?

A. I don't know that he would have. This presentation was put together initially geared toward our deputy staff. So I don't know if he sat in on it or not.

Q. What about Deputy Wroblewski? Do you know if he did?

A. I have no idea. I don't know when he started.

Q. I'm putting before you Exhibit A to Deputy Wroblewski's deposition. He testified this was a transcript of his training.

Was the training that we have been talking about, Exhibit EEE, is it included in here?

A. I don't see it as one in there. This was presented in February. And he started in June.

Q. But you gave it after, as well.

A. Sorry?

Q. You said you gave it afterwards, as well.

A. Right. I don't know if I had given it afterwards or previous to 2008. I don't know the exact dates. I know I gave it more than once. But it is not on his list.

Q. What was it entitled? Suicide Risk Reduction?

A. That is what this one is; yes.

Q. Were those materials available to your staff in the medical unit? I mean, did you ask them to look at them?

Q. I'm trying to think. I don't remember. I don't remember if we did an internal

Lunch-And-Learn or not. I know now it is an online training that all staff is mandated to take. When we first developed it, I don't know how it was distributed.

(Exhibit FFF marked.)

Q. (BY MR. OVERSON) I'm handing you Exhibit FFF. And I'll represent that this has been produced in discovery to our office.

Have you seen these materials before? And feel free to look through them.

A. Specifically, no, because they are not my employees. I have seen a training roster, yes. I have not seen these specific ones.

Q. Understanding and Managing Mentally Ill Persons. You attended that training; didn't you?

A. Yes.

Q. The Quarterly Suicide Prevention Briefing Trainings. This one took place in February of '07.

A. Okay.

Q. Did you continue that practice when you took over?

A. I don't believe -- let me rephrase that. I don't know if this training was based on my PowerPoint.

Q. No. I meant in general did that continue? I imagine you were -- my understanding is that you are responsible for training in this topic in terms of suicide risk and prevention.

A. Not necessarily, actually. For example, in 2008 they hired Lindsay Hayes to come in and do a block training to ensure that everyone had that training on suicide risk reduction. So at no time was I identified as the trainer in mental health issues. My putting together this training, and in volunteering to do it for the deputies, was simply based on my own understanding of the need to continue talking about suicide risk reduction. It was never a requirement of mine.

Q. Okay.

A. And, as I understand it, there were still other trainings that took place that I did not develop. For example, Lt. Aaron Shepherd just put together a training for an online training on suicide risk reduction based upon information from a security perspective.

Q. But you did have responsibilities for making sure that the health service unit staff were receiving training?

A. That is part of my responsibility as administrator; correct.

Q. And that would include suicide risk reduction?

A. Yes. In terms of making sure that our staff received training; yes. In terms of my putting together the trainings and presenting them I guess is two different things is what I was clarifying.

Q. They brought Lindsay Hayes in. He is a nationally recognized individual in the area of suicide risk -- or assessment and risk reduction. Correct?

A. Yes.

Q. And that was recorded?

A. Yes.

Q. That was produced to our office in a recorded format. And was that available -- well, when was the presentation?

A. I don't remember the month. As I understand it, and I talked with Aaron Shepherd about bringing him in, it was sometime in 2008. But I don't remember the month.

Q. It was prior to Mr. Johnson's employment?

A. When did Jim come on? Do you know? I don't remember.

(Exhibit GGG marked.)

Q. (BY MR. OVERSON) Go ahead and take a look at Exhibit GGG and see if that refreshes your memory as to when Mr. Johnson commenced employment.

A. The front page is the separation page. Forgive me, you are more familiar with this than I am. Is it on the top page?

Q. No. It indicates on the personnel file documentation log that he was hired in May.

A. Okay.

Q. So with Lindsay Hayes, would his presentation have been after that or before?

A. You are going to have to refresh my memory. I don't remember.

Q. I don't know, either.

A. I don't know.

Q. Let's go back to Exhibit FFF. Going into page Bates No. 92. There is a whole bunch of materials here that have been provided. Do you recognize those?

A. No. See, this would be an example of the security-generated documents or training that

I had nothing do with.

Q. And what about the suicide audits that follow starting on 95?

A. The suicide audits are generated by our security staff. So I am familiar with them. They come to us with questions. And as a manager now I review all of them with our management team.

Q. And was one done with regard to Mr. Munroe's suicide?

A. I don't know. I don't know if we were utilizing this suicide audit in 2008.

(Exhibit HHH marked.)

Q. (BY MR. OVERSON) If you would turn to page seven it looks like the training was on Thursday, February 21 of '08.

A. Okay.

Q. Does that seem correct?

A. Yes.

Q. So Mr. Hayes training was before Mr. Johnson started his job at the jail?

A. Correct.

Q. Was there any requirement or was he instructed to maybe review the video or read the materials? By "he" I mean Mr. Johnson.

A. I don't remember. I'm trying to refresh my memory. You know, interestingly enough, Lindsay Hayes training, while it sounds like the content was very good, the sense was that Shanna, our senior social worker, her kind of take on it was, and the way she said it was, there was nothing in there that was new to her. And she thought it might be really good for the deputies, but felt that for a social worker a lot of it was -- whether it be common sense, or a piece of, you know, clinical perspective, she didn't feel like it was the best training for clinicians. She felt like it was really aimed towards security staff. And so I don't remember specifically going to Jim and telling him what a great training it was and requiring him to take it. It wasn't one that stood out to me as for clinicians to be an outstanding training.

Q. Did you attend it?

A. Interestingly enough, and we just realized, and I don't think you even have this information yet, my name is on the roster. And I did not remember attending it or hearing the content. I presented at the training in the beginning for the management team and gave an

update. So I signed in because I did the update. But I didn't stay for it. So, no, I did not attend it.

Q. Have you watched the video?

A. No.

Q. Read through the materials?

A. I have looked at some of the materials; yes.

Q. Do you disagree with Mr. Hayes' perspective?

A. You know, it is interesting. I kind of agreed with Shanna when I looked at it. There is some good information in there. It certainly comes from kind of a correctional standpoint rather than a humanistic standpoint. So it is great information for security staff. But in terms of a clinician's stance on suicide prevention, I don't know that it added a whole lot to what we do.

Q. So you agree with it. It is just that the training wouldn't have been helpful to social workers?

A. Oh, I think anything is helpful. You can always learn more. You can always take something out of it. But in terms of our time,

and where we get our information, the feedback I got back from Shanna, that this was not the best source.

Q. Let's go back to Exhibit W. I hate to bounce around here so much.

A. It's okay.

Q. Page two. The policy that you referred to. And then we got off on some kind of training topic. This 1.1.10 suicide risk reduction. It talks about the intake procedure. And that includes that JICS form. Right?

A. Yes.

Q. And there are four suicide questions on the JICS form?

A. Yes.

Q. And then the sentence that goes over on to page three. "If an inmate answers 'yes' to any of the suicide questions, or if the deputy learns or suspects that an inmate is at risk for suicide, the deputy shall:"

Do you see that?

A. Yes.

Q. Have I read it correctly?

A. Yes.

Q. Then it shows a number of items. One

of them is "Immediately notify the health service staff with all available information and escort the inmate to the Health Services for further evaluation and possible housing."

A. Yes.

Q. So do you agree that that is a mandatory policy for the deputy?

MR. DICKINSON: I object to the extent I think the witness needs to read the entire policy rather than just skipping sections.

Q. (BY MR. OVERSON) I am not rushing her. Take your time.

A. It is interesting. This is one of those instances where I believe the practice, actually, is better than the procedure that is written.

Q. In what respect?

A. In terms of the timeliness of service. Depending on the circumstance. The deputies will call us very often to come down to booking to see patients in booking before they're housed. So in terms of the timeliness of care that is given, having, in this case that we are talking about, Jim Johnson actually go to booking, we are actually providing a timely service rather than

depending upon a technicality.

Q. So you are kind of focused on the words "Escort the inmate to the Health Services"; right?

A. Yes.

Q. Forget about that.

A. Okay.

Q. Let's focus on "immediately notify."

A. Okay.

Q. Do you agree that it is mandatory for the deputy who does the intake questionnaire, and the inmate says "yes" to one of those questions, that they immediately notify the Health Services staff?

A. That is what the policy says.

Q. And you agree with that? That that is what should be done?

A. You know, it's interesting. It depends. There is so many things that we do. There are times when we have had deputies take steps to keep the inmate safe prior to notifying Health Services. We have had inmates brought down in the middle of the night and put in a suicide gown and kept in medical because the risk was high, but there wasn't a health service staff

immediately available. So the deputy takes steps to keep them safe. So although there is obviously the best of intentions in the policy there are times when again the practice necessitates a different approach with the hopes of a better outcome. And we have actually had conversations with our deputies about that very issue. Because there are times when people will show up again in our health services division in a suicide gown on a watch that we hadn't seen yet. And so we have had that conversation of find us and tell us via radio. And they said, you know, our primary responsibility is to keep them safe. So, yes, we are going to notify you. But we are going to make sure they are safe first.

Q. But you do agree with the basic notion that when a deputy receives a "yes" to one of those four questions that they should notify you guys?

A. Correct.

Q. And as soon as possible?

A. Correct.

Q. And you would agree that some of the policies are framed -- and I think you have made

this rather clear today -- that some of them are framed with the notion that discretion is built in for the employee. To exercise a level of discretion in performing their duties.

Does that make sense?

A. I think so. I think that being a Sheriff's Office there are certain things that absolutely have to be black-and-white. And then I think there are things that fall into that gray area where, again, sometimes the practice may actually be better than the policy.

Q. And for an employee reviewing the policies would you agree that the word "shall" kind of cues them in that this is a mandatory thing? As opposed to a discretionary policy?

A. Yes.

Q. I believe it is Exhibit J. Yes. And if you'll turn to page 90 and 91. Have you looked at this JICS form?

A. I have. But not recently.

Q. Take your time and take a look at it.

A. Okay.

Q. Applying that policy we just spoke about, the deputy should have contacted Health Services Unit staff immediately?

A. Again, as we mentioned. That "immediately" is a -- there is a piece in there. Immediately as soon as possible is the immediately. So oftentimes they do take steps to keep someone safe prior to notifying us.

Q. But that they should notify you as soon as possible?

A. Yes.

Q. Under the circumstances of the answers the deputy received --

A. Yes.

Q. -- with regard to Mr. Munroe as indicated on page 91?

A. Yes.

Q. Then if you would turn to 110. Is this -- this appears to me to be a screen shot of somebody's computer.

And I'm wondering, can you tell me if this is on your side? Meaning, the medical services unit? Or is this on the security side?

A. This is security side.

Q. And do you know about this?

A. Yes.

Q. What is this?

A. Our jail uses what we call an alert

system to help identify and describe behaviors or needs of a patient. We use it for everything from special diets, to keep away, to suicide watch.

Q. So if somebody was a diabetic and needed insulin every day or they would go into seizures or whatever it might be on the alerts list?

A. That's a good question. Because I don't know that our insulin-dependent diabetics are on the list. Although, we do have a chronic care alert. But that wouldn't be a bad example.

Q. But if a person is put on suicide watch it is going to go on the personal alert detail?

A. Yes.

Q. So according to this record Mr. Munroe was on suicide watch at some time on September 29?

A. Okay. That is what that appears to be. Yes.

Q. And turning to 113. It is a little difficult to read. But you would agree the notation there is cleared by Jim Johnson?

A. Yes.

Q. And then 114 there is another screen

shot. Again, it looks like it says, "Alert update/display."

This is the same system we are talking about; correct?

A. Similar; yes.

Q. Similar? Or it's different?

A. I mean, it is just a different screen.

Q. Within the same system?

A. Yes.

Q. And this one indicates that Mr. Johnson cleared Brad Munroe on September 29, 2008 from high-risk suicide watch?

A. Yes. And to clarify, though. These alerts are set by deputies. So this is not a suicide watch that was instituted by health services staff. For example, we talked earlier about those folks who are in suicide watch down in our medical area. Those are folks who are essentially admitted to medical and has been determined by medical staff that they require a suicide watch. So though the alert is set it doesn't look like Mr. Munroe has been determined to be a suicide risk by health services staff. And it is a little bit of a different perspective. But, again, in terms of how we

treat them, a big piece of it is also determined by who makes that determination.

Q. I understand. But what I'm wondering then is, do you know who put Mr. Munroe on suicide watch alert that day?

MR. DICKINSON: Object. Lack of foundation. Speculation. But you can answer.

THE WITNESS: I have no idea. To be honest, I did not know he was on suicide watch. I know from what I understand that his behavior was erratic and maybe considered to be impulsive. Because he was under the influence or appear to be under the influence my understanding was that our staff took steps to keep him safe. So whether you call it a suicide watch or, "Hey, we are keeping an eye on this guy," the intent is the same. I don't know who set it, though.

Q. (BY MR. OVERSON) you have heard the term " special needs" inmate?

A. Yes.

Q. And that is in Ada County policies. What is a special needs inmate?

A. It is not a term I love. Because I think it is a little misleading. Generally, we think of special needs people who have lower

cognitive functioning in the mental health field. NCCHC and, therefore, our standard operating procedures refer to a special needs patient as anyone who has special needs. It can be someone who is pregnant. It could be a juvenile. It could be somebody with a chronic care condition. So a special need kind of outside of the ordinary.

Q. So mental illness?

A. It could be. Depending on how that is defined.

Q. And suicidal ideation? An inmate experiencing suicidal ideation, that could be a special needs inmate?

A. You know, it is interesting. We tend to think of special needs more in the arena of chronic care. Kind of an ongoing issue. And oftentimes in our setting the suicidal piece is a very transitory piece. So they don't often fall into kind of an ongoing special needs category, per se. Although, at that minute it certainly would qualify as special needs during that minute.

Q. If sounds like you are saying that a person can be suicidal one minute and not

suicidal the next minute.

A. Believe it or not -- I actually didn't say that, per se. But believe it or not we do see people clear out very quickly. Very often we see people who come into the jail who are so distraught and say, "Oh, I'm going to kill myself the first chance I get. And I mean it." And then they sleep it off, wake up, and they are fine. So there is a piece of that transitory suicidal ideation that we see.

Q. What about the other way?

A. The impulsiveness?

Q. Going from not suicidal to being suicidal? Do you see that flip quite quickly the other way, too?

A. I'm not an expert in the field of the dynamics, per se. I know there is people who are experts in all of those dynamics relating to suicide. What I have seen in my experience is it is both. I have seen people who plan it out over a long period of time and are committed to doing it no matter what. And unfortunately do complete a suicide, despite everyone's best interest to keep them safe. And I have seen people where there is nothing going on. Everything is fine.

And then there is a trigger. And that trigger throws them over the edge. So I have seen both.

(Exhibit III marked.)

Q. (BY MR. OVERSON) I have handed you Exhibit III. You would agree this is the special needs treatment plan policy for Ada County Jail Health Services Unit?

A. Yes.

Q. And it defines special needs inmate to include inmates with suicidal ideation and/or behavior?

A. Yes. And so I would take that to mean current suicidal ideation or current suicidal behavior. There is a big difference between past suicidal ideation and suicidal behavior and current suicidal ideation and behavior.

Q. And a treatment plan would consist of a written statement?

A. Yes.

Q. And that written statement would address the needs of the individual inmate?

A. Correct.

Q. With short-term and long-term goals; right?

A. Yes. For those patients who fall into

the special needs category. And just to be clear. We have seen so many people who are on psychotropic medications who don't necessarily fall into that special needs category. So just to clarify that piece, as well.

Q. If you would, let's turn to Exhibit G to Farmer's deposition. And that is probably going to be in the beginning. This is the discharge planning policy for the Health Services Unit at the jail. And it was applicable in August, September of '08.

A. Yes.

Q. That second-to-last sentence there. "Most medications (two weeks worth) are released with the inmate providing they have no abuse potential."

A. Correct.

Q. And that would probably include Celexa?

MR. DICKINSON: Object. Foundation. Speculation. To the extent you can answer.

THE WITNESS: I would think so.

Q. (BY MR. OVERSON) And the antipsychotic?

MR. DICKINSON: Same objection.

THE WITNESS: Yes. Again, as I

mentioned before, our goal is to provide that continuity of care. So our goal would be absolutely to meet the policy.

Q. (BY MR. OVERSON) You reviewed the records of Mr. Munroe from the jail medical records and the JICS forms; correct?

A. Yes.

Q. Did you review any other documentation related to Mr. Munroe?

A. I'm trying to think if there is anything else there might be. I'm thinking that is inclusive. You know, I know Jim wrote down some of his thoughts.

Q. His after-the-fact kind of --

A. Correct.

Q. And you reviewed that?

A. I must have read it. Although, I can't tell you that I have read it in detail. I know it exists. But then outside of that, and the charts, and the JICS reviews, offhand I can't think of any other documents.

Q. You have been identified by your counsel as possibly rendering an expert opinion at trial. What are those opinions?

MR. DICKINSON: Darwin, we have talked

about this before with, I think, Raney. And to the extent that we haven't hired Kate, we haven't brought Kate on to give an expert opinion, per se. But as you probably could tell by a lot of testimony here today, and the questions you have asked, Kate would tell you in her opinion just so she could give you an answer. Those are the kinds of things I expect at trial she would do, as well. But as far as forming opinion, and giving opinions, and testifying as an expert opinion, per se, that is not what she is. That is not what we have provided her for.

Q. (BY MR. OVERSON) So any opinions you offer here at trial will be limited to things we have discussed here today?

A. I don't know.

MR. DICKINSON: Well, I think that is difficult. Because you may ask questions, otherwise. And the court may ask questions, otherwise. But I can tell you we haven't submitted to you an expert opinion disclosure, because we have something up our sleeve with Kate that we have a whole other area we are going to come and sandbag and surprise you with at trial. That is not our intent. I think there are things

that she can talk about. She has talked a number of times about her opinion today. But as far as preparing her with a top secret opinion we will give you a disclosure if that is the case.

Q. (BY MR. OVERSON) Can you answer the question then?

A. If you don't mind repeating it.

Q. My question is, you have been identified as possibly rendering an expert opinion at trial. And as your counsel has indicated you haven't provided a report or anything.

Other than what you have already told me are there other opinions that you are going to render at trial?

A. Not that I know about at this time. Unless there is something extemporaneously that comes up, and if I'm allowed to answer those things, I imagine I would. But I don't have any knowledge of any prefabricated opinion that I plan on rendering. Is that a funny word? Prefabricated?

MR. DICKINSON: That's fine.

THE WITNESS: Like a bad couch or something.

Mr. OVERSON: I just got a picture of it coming in on a trailer.

MR. DICKINSON: No, it just sounds like somebody has given you something written.

THE WITNESS: I don't have anything. I don't know what to expect at the trial at all. Honestly, this is the first time I have gone through something like this. So I am following the lead.

Q. (BY MR. OVERSON) Do you feel that the staffing of the Health Services Unit in August and September of '08 was sufficient to meet the necessary medical and mental health needs of the inmates at the jail?

A. To meet the necessary mental and medical health needs; yes.

Q. We talked about Dr. Garrett. And we talked about Dr. Estess. Were there any other doctors that worked for the jail?

A. We talked about Dr. Steinberg as being a contracted physician. But he didn't work in the same capacity as Dr. Garrett or Dr. Estess.

Q. I think he is a physician assistant.

A. You're right. Ricky Steinberg. He was. So forgive me.

Q. So any other medical doctors?

A. The only one who had worked previously -- you mean during this time frame; correct?

Q. Yes. August, September '08.

A. I'm trying to think -- the only other thing, which would be a reach, is if Dr. Garrett had a secondary backup physician. But I can't even tell you that he needed that during that time frame. So I believe Dr. Estess and Dr. Garrett would be it.

Q. And how frequently --

A. Oh. I'm sorry to interrupt. I didn't follow the rule. On that same note Dr. Estess would have had a backup doc. And I don't know if that doc would have come on-site during that time.

Q. But if there was they would have been working with either Estess or Garrett?

A. Correct.

Q. They would have been associated with them?

A. Yes.

Q. Not there at the jail at the same time?

A. Correct.

Q. How often did you have Dr. Garrett up in medical health services during that time period?

A. I believe it was one day a week. If not -- well, Dr. Estess was on backup. I know Dr. Estess was there once or twice a week. Dr. Garrett, I believe, was at least once a week. And then he would have been on call 24/7.

Q. Did that concern you? That you didn't have a physician there full time?

A. No. Again, his availability by phone. And then you could call Dr. Estess. A backup was always calling 911 or sending someone to the hospital. So I was never concerned that there was going to be a lack of care because he wasn't on-site more days.

MR. OVERSON: Why don't we do the notorious let me go through my notes thing.

MR. DICKINSON: Sure.

(Recess.)

Q. (BY MR. OVERSON) Let's turn to Exhibit S. It is a number of training transcripts. If you turn to Bates stamp 152. It is Jeremy Wroblewski's transcripts.

Do you play a role in the -- well, for

instance, the Initial Classification and Suicide Risk Reduction Debrief that was held, according to this document, on 5-1-2010, would you have played a role in determining like the content of that or setting that up?

A. Not necessarily. And that doesn't ring a bell.

Q. Other than that do you see any of those that would suggest to you that Mr. Wroblewski had training in Initial Classification and Suicide Risk Reduction? Let me just limit it to Suicide Risk Reduction.

A. There is a couple of things that I don't know what they include. The Detention Officer Academy. I don't know if that includes suicide reduction. Orchard Training Area Safety Brief. I don't know what that is.

Q. I'm just asking you if you do know.

A. Yeah, I don't know what their training is comprised of in terms of the content of some of these titles.

Q. I'll hand you Exhibit GGG. Has it come to your attention that during the period that Mr. Johnson worked at your office or in the Health Services Unit that he didn't hold a

license in the State of Idaho?
A. Yes.
Q. When did that come to your attention?
A. Gosh, I don't think it was until this trial process. It was, I believe, a piece of this process. Embarrassingly so.
Q. And whose responsibility was it to check and make sure the medical staff was properly licensed?
A. Ultimately, that does fall on me. I would say human resources carries that responsibility, as well. But in terms of one of my responsibilities it is make sure that my staff is licensed. Or that they have the appropriate licensure.
Q. For the job that they are doing?
A. Correct.
Q. You don't care if a janitor has a license in janitorial services, I'm sure.
A. I might. Believe me, they have to know more about biohazard stuff than you think.
Q. That is probably true. And by your answer I take it that concerns you?
A. You know, really more than anything that concerns me is I am embarrassed that I

didn't know. I don't think it changed how he practices as a clinical social worker. So in terms of, you know, his assessment skills, his practicing, his dedication to the job, I don't think any of that is affected by his licensure. He has great experience. Great foundation in training and in his education. And so I don't think any of that is a reflection of his skills or ability. So that part doesn't concern me. My concern is that it was absolutely off my radar. In my experience a license was not necessary to work in a jail. And so --
Q. In your experience licensing wasn't necessary to work in the jail as a social worker?
A. Correct. I moved here from California six years ago. Actually, just in December it was six years. And for five years I worked in the L.A. County Jail system as a psychiatric social worker. For two of those years -- no, not for two of those years. But for some time I was not licensed. I had coworkers who were not licensed. I did a rotation at Cedars Sinai Hospital. And in the hospital all of my supervisors were MSW's. Not licensed. So in California you can practice as a master's level social worker without being

licensed. The licensing in California denotes that you have passed an exam in clinical social work. And so only actually through training at L.A. County did I become an LCSW. And so in my experience I worked with plenty of social workers who are not licensed.
When I came to Idaho I obtained any Idaho license before I moved simply because I wanted to maintain my license to clinical social worker status, because it requires like 3,000 hours of fieldwork with a supervisor. And went through oral boards, and written exams, and all of that. So I wanted to maintain that licensure. So when I moved to Idaho I already had it intact. And when I started at the jail there were no questions about licensure. My guess is because I was their first social worker. And they didn't know what to ask. So it was certainly through no, you know, intention to be ignorant or to be deceptive. It simply was not part of my radar and not part of my experience.
Q. So --
A. But it is still my responsibility. Which I accept.
Q. You would agree at least in Idaho

there is a difference between designation of MSW and a LCSW?
A. Yes. And in California there is a difference, also. Yes.
Q. And the service that Mr. Johnson was hired to provide at the Ada County Jail was a clinical social worker?
A. Correct.
Q. And you're licensed in the State of Idaho?
A. Well, actually, to back up. I believe the job description is psychiatric social worker.
Q. But it requires --
A. Which is different than clinical social worker.
Q. But it requires a license?
A. Now I know that. I did not know that before.
Q. Oh, you didn't know that? Okay.
A. I honestly had no knowledge that that position required a license. Again, based on my past experience with licensure in California.
Q. So you weren't familiar with the laws of the State of Idaho in terms of licensing requirements for social workers?

A. Unfortunately, that is where I could have done a better job. I was not aware of that licensing law.

Q. Tell me if you agree with this. "Quality health care can only be provided by qualified credentialed personnel. Credentials will be maintained on file by the nursing supervisor."

In relation to the Ada County Jail, do you agree or disagree with that statement?

A. Can you repeat it, please?

Q. "Quality health care can only be provided by qualified credentialed personnel." I'll stop there.

A. Well, obviously, in this case, I would not agree with the fact that the care Jim gave was any less quality than anyone else because he didn't carry the Idaho license. In fact, I think he was a superior clinician to many I have met.

Q. But it is the policy of Ada County that medical providers be properly credentialed and licensed?

A. Yes.

Q. Jim got a raise. A five-percent raise?

A. Yes.

Q. At your recommendation?

A. Yes.

Q. And that was kind of unusual, because he was up for a three-percent raise?

A. Correct. If we believe someone has -- or brings to us a superior skill-set, or a superior dedication, we have the option to provide them with a five-percent raise.

Q. And that is kind of a rare thing; isn't it? I mean, Jim said it was. He was pretty complimented?

A. Yeah, I would say so. Again, this is at the six-month mark. So we do generally stick with the three-percent raise.

Q. So that was on 12-7-08 that he got the raise?

A. I don't know the date. But that sounds about right. Especially I think we talked about the fact that he started in May. Is that right?

Q. Yeah. And page three is -- looks like some kind of personnel change information sheet.

A. 12-7-08. Yes, I see that.

Q. So that is when he received a raise? A six-month merit increase, five percent?

A. Yes. And, again, that would be based on his skill-set and his level of expertise that he brought to our agency.

Q. When he came into the jail as a new employee what was in place to make sure that he had read through the policies of Ada County Jail?

A. When he came in in May it was during that time that we were evaluating our current standard operating procedures and recognizing that they needed to be updated. And so at that time we were training more on practices and appropriate interventions rather than off of the standard operating procedures.

Q. So practice and policy didn't always look the same?

A. As I mentioned previously, any organization -- and I was trying to improve their processes -- may not exactly match. Even though that is ideal. And I absolutely understand that. And we are working towards that. At the same time, as we continue to improve, there are situations where our practice is better than our policy. One of the examples is one thing we don't want to train on is our outdated standard operating procedures at the time, and that we looked at today, that mentioned that detention

deputies pass medications. Nurses were passing medications. And so that is again kind of reflective of the stance we were taking at the time is focusing on the practice rather than some of the outdated policies that were still in existence.

Q. We talked about best practices several times today.

A. Yes.

Q. Are there best practices applicable to the suicide risk assessment?

A. Interestingly enough, I think like with any intervention in mental health there is different opinions as to what a best practice is. I have run into people that say a checklist is a best practice. And we have talked about using a checklist to make sure you get all of your answers -- all of your questions answered. And then I have also discussed with very qualified clinicians the fact that using checklists causes you to lose your assessment skills, because you are not following a line of questions. You are simply asking the next question in line. So even in terms of best practice I think there is probably room for discussion.

Q. So there is no established best practice standard in that area?

A. You know, I don't know that I have seen what would be called a best practice. At the same time, a known practice within the industry is looking at issues like current suicidal ideation. Current intent. Does someone have the means to harm themselves? So there are certain pieces that are kind of, I guess, a standard in the industry to look at when you are doing a suicide assessment. But in terms of best practice I would be curious to see one standard that everyone would agree upon as a best practice.

Q. You had mentioned that Jim Johnson had a really good education. What was his education?

A. I'm a little biased. He went to USC like I did.

Q. Do you know what his grades were?

A. I don't know what his grades were. Being through the social work program at the University of Southern California I was very happy with my education there. I felt like it gave me a very well-rounded foundation for what I do. I had outstanding professors. I had, I

think, unbelievable field rotations in terms of my internships. I had wonderful field liaisons. So having been through that program myself I am quite confident that Jim had a similar experience.

Q. When did you obtain your degree? Your master's?

A. 1998. My mother graduated from University of Southern California School of Social Work program in 1963. And back then she will tell you they had an outstanding program. So in terms of the time frame I'm quite confident that Jim received a similar good foundation at that school.

Q. Do you know what a Requisite to Attend Training Form is?

A. Or a Request to Attend Training?

Q. I'm sorry. It is a Request to Attend Training Form.

A. That would make more sense. I would imagine it is one of our request forms. I didn't realize it was called that. A Request to Attend training.

Q. And would that form be filled out for each of the items on Mr. Johnson's training

transcript?

A. You know, I don't know. As I understand it, trainings that are offsite require that training form so that our training department and finance department can pay for it and set it up. For internal trainings, for example, if he went to a Con Games training put on by a deputy, I don't know that he would have filled out a training form for that. Actually, I'm quite confident he wouldn't have. Nowadays we are getting more formalized so that all of that training is better documented. But I can't say back then whether a training form would have been submitted for all of the internal trainings.

Q. What was Jim Johnson's experience working inside of a jail before you hired him?

A. As I understand it, he worked for a community mental health agency in central or northern California. And I remember when we interviewed he did talk about the fact that in that capacity he would respond to jails to do assessments.

Q. And was that a frequent part of his job?

A. I don't know. It was frequent enough

that he talked about having that understanding of a jail setting in his interview. Which is one of the reasons we were drawn to him, amongst many others.

Q. Would you agree that most jails have their own way of operating? That is, not all jails operate the same?

MR. DICKINSON: Object. Speculation. Foundation. To the extent you can answer.

THE WITNESS: I think there are some basic threads that probably will run through all jails. With that being said, the specific details are probably not the same at different jails.

Q. (BY MR. OVERSON) Different policies a different jails?

A. Probably.

Q. And with a new hire coming in it is probably important for them to make themselves familiar with the policies of the jail that they are going to start working at?

A. But, again, I think in our case it was more important that he become more familiar with the practice of the jail.

Q. Because they were different than the

written policies?
A. Because they were being improved upon.
Q. But they were different?
A. Yes.
Q. Was it important, in your mind, anyway, to Mr. Johnson performing his job that he be familiar with the NCCHC standards?
A. You know, it's interesting, because the standards are so important to me as an administrator. To a lot of my staff. That being said, the policies that dictate the social worker's role, or the mental health staff's role, are not as explicitly laid out in the NCCHC standards. Really, at the most basic level, is that we provide timely, appropriate care. And so I think that as long as our social workers understood that basic premise that we are providing timely appropriate -- clinically appropriate care, that we are falling within the realm of the standards.
Q. So it wasn't a concern to you that Mr. Johnson hadn't reviewed the NCCHC standards? Made himself familiar with them?
A. Not in terms of his clinical ability or clinical skill-set; no.

Q. There is a June 9, '09 performance appraisal on page 23 of Exhibit GGG. And turn to page 25. You know, before I ask you about that. Were you involved in the preparation of this appraisal?
A. Of Jim's?
Q. Yes.
A. You know, it's funny, I don't remember. Shanna, as a supervisor, will often consult with me or touch base with me. But I can't tell you that I specifically remember --
Q. Sitting down with him and going through this form?
A. Well, I know that I was -- I'm almost 100-percent positive that I did not sit down with Jim during his appraisal. And I don't believe I was there. If anything, it wouldn't be out of our realm for Shanna to talk with me about the evaluation she is going to do or has done.
Q. And then you sign it afterwards? After you have reviewed it?
A. Correct.
Q. At the bottom there it says, "Generally I follow the rules." And then he talks about some other stuff. Did Shanna talk to you about

that?
A. Yes.
Q. What did she say?
MR. DICKINSON: Object. Hearsay. To the extent you can recall.
THE WITNESS: Yes. Interestingly enough, Jim, coming from the community, would try to do things that by a jail standard is probably crossing a professional boundary of wanting to help too much. If an inmate says, "Oh, I'm missing my mom so much. If only I could call her to tell her I'm okay." And this is an example. Because I don't remember specific instances. But this is very directly in line of what I recall. Jim might call that family member and say, "Jim is really missing you and just wants me to tell you he loves you." And so it would be within that realm of he would, in our opinion, literally -- you know, he might want to be helpful to the extent he might cross some of what we see as very natural and very strict boundaries. But what he saw in the community as something that would be appropriate. So it was something that Shanna had talked with him about as being an important part for him to get onboard

with in our setting. And he understood that. And just to clarify. Our boundaries is because of the concern for doing favors for inmates or being drawn into something that is not healthy. Not to not be helpful.
Q. I'm sorry. Not to --
A. When I say we have boundaries to not do those things it is because of the risk of doing favors for inmates and not others. Not to not be helpful.
Q. Okay. On page 28. His comments. "I should also review standards related to jail mental health and increase my knowledge of the psychology of addictions and of criminality." Did that statement concern you when you saw that?
A. Why would it concern me?
Q. Well, "I should also review the standards related to jail mental health."
A. I think that is a good statement from a newer social worker in the jail. He absolutely should continue to review those standards.
Q. You read that as him continuing to review them; right?
A. Oh, I don't know that this statement means that he has never reviewed them, ever.

Q. He says in a different appraisal on page 29. This one is 12-30-08. It looks like it is three days late. But we'll overlook that.

A. That is actually not bad for us.

Q. "Initial assessments could be more thorough and would be expected to be so now that additional staff have been added to share workload."

A social worker was added after Mr. Munroe's death?

A. Yes. And that was a long time coming. Being a county agency it would be nice if we can just say, "Oh, we need to add a social worker." That would have been budgeted for in the budget cycle in March of that year. And had been part of the staffing plan to be able to do that.

Q. So there were only two social workers -- psychiatric social workers at the jail working full time?

A. Correct. Which is actually a nice increase. Considering when I started in 2005 there were zero.

Q. So when you represented to the court in the affidavit that there were three. You meant currently?

A. Interesting. You know, I don't know -- I guess when I did the affidavit I don't know if Laura was still ensconced in my memory that I included her in that three. Or if I was thinking of three positions. I don't know. Do you know when Laura started? Because depending on when she started the position would have been in effect for three social workers.

Q. Were you aware that Kaiser Corporation had made an inquiry regarding Mr. Johnson after his resignation from his position at the jail?

A. You mean an inquiry of the Sheriff's Office?

Q. Yes. And by that I don't mean something criminal.

A. I don't remember that they made an inquiry. I think Shanna had mentioned that he was going to work for them.

Q. So that didn't involve you?

A. No.

Q. There used to be an employee there named Peni Dean?

A. Yes.

Q. What was her capacity there?

A. She's a nurse.

Q. And what circumstances -- I understand she doesn't work there anymore?

A. Correct.

Q. What are the circumstances of her departure from the jail?

A. Can I answer that question, Jim?

MR. DICKINSON: I don't know the answer to it. So let's go talk. Can we take a minute, Darwin?

MR. OVERSON: Oh, yeah.

(Recess.)

(Record read.)

THE WITNESS: So Peni Dean is an RN. She was expected to perform her tasks at a certain level. And provide really a certain level of informal leadership. And she really struggled in both of those areas.

Q. (BY MR. OVERSON) I'm sorry. Did you say formal or informal?

A. Informal leadership. As an RN with LPN's and MA's. Different levels of medical licensure. She was towards the top of the hiearchy, so to speak. Even though hiearchy is not a word I like to use. And she really struggled coming up to speed. She was a newer

nurse. And we worked with her. Worked with her on these various issues. And when it became clear that she was really not going to perform her job duties in the manner of which we needed her to we terminated her employment.

Q. And when was that?

A. I don't know. Maybe about a year ago. I would have to check HR records to confirm.

Q. In maybe June of 2010? Does that sound right?

A. I could say that sounds right.

Q. But you don't know?

A. If you would have said November 2009 I would have okay. Did you say June of 2010?

Q. Yeah.

A. Is it that recent? I thought maybe you knew. I don't know.

Q. How many suicides have there been at the jail during the last five years?

A. I think just one.

Q. That you're aware of? And that would be Mr. Munroe?

A. Yes. Since I have been there I believe only the one.

Q. What training do the health services

staff receive on the policies and procedure on the security side, if any?

A. It is hard for me to ferret out what in the training they have received is based on security policies and procedures. Or, again, back to based on practices. Our staff receives training again on what we call Con Games. Which has a lot to do with inmate interactions. Con Games is a bad name. Because it has this bad implication. But it is really good training on inmate interactions and why people do what they do. And our thoughtfulness going into those interactions. We receive trainings on classifications. How we classify our folks and why we classify them that way.

Q. I'm wondering, though, is there anything in place where they know how things work over there on that side? I know that is pretty general. You understand the stuff that relates to medical. But what about just the simple operation of the jail?

A. You know, interestingly enough, we talked lately that we could use more formalized cross training. Because most of the exposure we get is from those informal interactions. Our

medical tasks overlap so much with security tasks so often that I would say most of that exposure comes from working so closely with our team who are commissioned officers. And so, for example, the nurses who work so closely with booking understand their procedures and why they do what they do from working with them. And so the same goes for the nurses who pass meds and work with the deputies who work with them in the housing areas are learning what they do from their interactions with them. So I would say they receive informal training and exposure through working with them 24 hours a day, seven days a week. With that being said, we are working on doing more formalized cross training.

Q. Do you know if there is a policy in place that requires classification to contact health services staff before they place an individual with a suicide history in a single cell environment? Or single inmate cell environment? Like a PC?

MR. DICKINSON: Object. Compound. Speculation.

THE WITNESS: You know, it's interesting. You asked this question a little

earlier today. And I know as a social worker I've received that phone call. I can't tell you that I have seen it written in their policy and procedure manual. Although, I am aware of their practice of doing that.

Q. (BY MR. OVERSON) I asked you questions about like what documents you have reviewed regarding Mr. Munroe.

A. Yes.

Q. And I kind of touched on this a little bit. But who have you spoke to about Bradley Munroe's death?

MR. DICKINSON: To the extent the question --

MR. OVERSON: Excluding your counsel.

MR. DICKINSON: And Joe counts. And Ray counts. And Sherry and I.

Q. (BY MR. OVERSON) Excluding all of the attorneys you have been chatting with.

A. So the people in my kind of immediate radar include Jim Johnson. I don't have a distinct recollection, but I imagine Shanna Phillips would have been included at least in some discussions I would think. Captain Scown. We did, as part of our constant goal to improve

our processes, did discuss the circumstances as we do with any event in a formal setting. But I can't tell you who was at that meeting. It would make sense that Captain Scown would be there. And the involved parties. And Jim, and Shanna, and myself.

MR. DICKINSON: I need to ask you a question real quick.

THE WITNESS: Sure.

MR. DICKINSON: Let's go off the record.

(Recess.)

MR. DICKINSON: I have an objection to enter.

MR. OVERSON: Okay.

MR. DICKINSON: To the extent your question goes to any items that are protected already by court order. There is a mortality review that we discussed. And to the extent that you talked to people or had a meeting involved in the mortality review that is protected and you don't have to talk about that.

Secondly, there was a psychological autopsy done. And I don't know to what extent you talked to people involved in that. But I

think you are aware that that was done. Is that a fair statement?

THE WITNESS: Yes.

MR. DICKINSON: That has also been protected by the court. So those things. Plus, interactions with counsel you don't need to answer as far as people you talked to or documents that you saw.

MR. OVERSON: And, Jim, I think you left out, and I don't know if it is different, in interest of good faith, the administrative investigation.

MR. DICKINSON: Thank you, Darwin. Yeah, to the extent an administrative investigation was conducted. If you sat down and talked to people involved in that process, that is protected, as well.

Q. (BY MR. OVERSON) So let's follow this up so we have some clarity. You have just been told by your attorney areas that are protected under whatever privilege.

MR. DICKINSON: Work product. Attorney-client.

MR. OVERSON: Pretty much every one of them. Except for husband and wife.

Q. (BY MR. OVERSON) When you spoke to Jim Johnson about the death of Bradley Munroe was it outside of the context of those privileges?

A. Yes. So we can include that.

MR. DICKINSON: When you say "we can include that."

THE WITNESS: His name is what I meant.

MR. DICKINSON: Fine.

MR. OVERSON: Outside of the context of those --

MR. DICKINSON: I thought you were including it in that grouping.

Q. (BY MR. OVERSON) And Shanna Phillips. Did you talk to her?

A. Yes. Outside of that setting, as well.

Q. And Linda Scown?

A. I must have at least a little bit. She was there that first night I responded. And as my boss we must have debriefed some.

Q. What about Dr. Estess?

A. Yes. And then I have a few more, also.

Q. Okay. Go ahead.

A. As I think about it, even just recently, as the administrator, people who have done their deposition have come to me and just

talked about having to come and do their deposition. And we have had those kind of routine discussions of just be honest. Just go out there and there is nothing you can't say. And just take your time. So I have had those kinds of discussions with the folks that have come for their deposition. Including Dave Weich, Lisa Farmer, and Leslie Robertson.

Q. Is that when you found out when you spoke to Mr. Weich that the medication form appeared to not have been signed by Mr. Munroe? You said sometime today --

A. I don't remember if it was not until he was deposed or before then that that came to my attention.

Q. And all of those three, that was after their deposition?

A. We had brief interactions before that included those statements I made about relax. Just tell the truth. That kind of thing.

Q. Anybody else?

A. I hate to miss people. You know, I'm trying to remember if Major Freeman was Major Freeman at the time. And if we had a discussion. But I don't remember. And, again, I have had

more superficial conversations with folks, too, when I think about Major Freeman. More recently with him just, "Oh, have you had your deposition yet?" And he is touching base with me. Those kinds of superficial discussions. In terms of any real in-depth ones, in terms of process, those that aren't protected would include the more direct involvement ones like with Jim and with Shanna.

Q. How many times did you talk to Jim about Mr. Munroe's death?

MR. DICKINSON: Asked and answered. But go ahead.

THE WITNESS: I don't know exactly. I do know that I did talk with him at least once, which was that next morning.

Q. (BY MR. OVERSON) And what did he say?

A. You know, I don't remember what he said.

MR. DICKINSON: Object. Hearsay.

THE WITNESS: I don't remember what he said. I guess that answered the question.

Q. (BY MR. OVERSON) And what did you say?

A. I don't remember the details of what I said. I do remember my feeling -- my intent of

going to talk with him. And that was more from kind of a protective realm as the administrator than anything else. I know I was concerned for how he might feel regardless of his clinical skills, and intervention, and all of that. Having someone die is very traumatic. You know, obviously for the family and the community. But also for that clinician. So my first intent was to touch base with Jim and check in on him. Other than that I don't remember the content.

Q. Did you talk to him about the events in terms of what he did in his interaction with Mr. Munroe?

A. I can speculate to say that would be a normal part of the process. You know, if Jim wanted to talk about it. And if I felt a need to ask questions I would say -- I would speculate that would make sense to me. But I don't remember the content.

Q. What about with Shanna Phillips? How many times did you talk to her about Mr. Munroe's death?

A. I don't remember. And, again, it would make sense for us to discuss it and debrief it as a team. But I can't tell you that I remember

that.

Q. So your knowledge of September 29, 2008, the interaction between Mr. Munroe and Mr. Johnson, that's based on your review of documents in this case that you have looked at?

MR. DICKINSON: Object to the extent you learned anything from privileged information.

THE WITNESS: That is a good way to say that.

Q. (BY MR. OVERSON) Have you testified today about any events or any information based on what you learned from the privileged materials or privileged conversations?

MR. DICKINSON: I'm going to object to the extent that that heads into privileged information.

MR. OVERSON: No. I'm asking her a "yes" or "no" question. If anything she has said today was learned through the process of privileged information that we have been discussing on the record. I want to make sure that I'm not listening to her opinions that she has expressed here today and also being denied access to the information that she relied on in forming those opinions.

MR. DICKINSON: To the extent she is administrator, and she wasn't there when this happened, clearly she has learned stuff from reviewing documents you have shown her today. She is also a defendant and had access to information that is not part of the discovery process. And to ask somebody to parse that seems very difficult.

MR. OVERSON: It is. And that is why we kind of rely on you to interject the objection and direct your client.

MR. DICKINSON: I kind of am. I'm objecting so far.

MR. OVERSON: Do you want to talk to your client about that?

MR. DICKINSON: Sure.

(Recess.)

MR. OVERSON: Actually, let's have the question read back.

(Record read.)

THE WITNESS: I would say all of my answers today were based on information in front of me. In terms of directly answering questions and that my knowledge base came from my experiences or my -- I guess my experiences is

the best way to say it. It just feels very natural today in terms of my responses. So I don't have any sense of pulling information from another source. If that is helpful. If there is anything that leaked into my unconscious I am not aware of that influence over my answers. If that is a fair way to answer it.

Q. (BY MR. OVERSON) Forgive me. It's been a long day. If I have asked you this, forgive me.

A. You think it's a long day?

Q. In your role as an administrator at the jail would you expect your social workers to review the JICS forms when they are assessing inmates for suicide risk?

A. It has not been an expectation.

Q. Would you expect them to know that that information is available to them?

A. Well, it's interesting. I think that the information gets to them usually through other sources. Usually they get the information verbally from the deputies who are reporting the information. Or they get it in a written task scheduled by the nurses who have reviewed the JICS information.

Q. But directly would you expect them to know that they have direct access to the JICS form?
A. I don't know that it is an expectation.
Q. We talked about Jim's licensing. And we talked about your licensing as a social worker. As a licensed social worker you're subjected to discipline by the Board of License in Idaho?
A. Yes.
Q. And with Jim not being licensed, he was not. Is that right?
A. I do not know that.
Q. Is that your understanding? Or you don't know?
MR. DICKINSON: Object. Foundation. Speculation. You can answer, if you know.
THE WITNESS: Actually, when I did realize Jim was not licensed, and that was an issue, I extensively reviewed the laws of Idaho and the licensing laws. But I can't tell you that I remember the details of that right now. What I have taken out of that is ensuring that our staff is currently licensed.
Q. (BY MR. OVERSON) And as a result of

anything Mr. Johnson did relating to Mr. Munroe did he receive any discipline?
A. No, he did not.
Q. And part of your job is to discipline employees when they have done something wrong?
A. Absolutely. I didn't see any reason to discipline Jim. And to this day I still don't.
Q. To what?
A. I don't see and did not see any reason to discipline Jim. And I still don't.
Q. Part of your responsibilities to the jail is to make sure that employees follow the policies of the county?
A. Again, I have to temper that statement with, when the policies are not best practiced I prefer that they follow good practice. And, again, just as a reminder. I came into a system whose standard operating procedures were not completely up-to-date. But what I found was the staff still practiced in a way that reflected good practice. So the policies not being updated was not a reflection on their practice. But I saw very early on that there was a need to update the policies. And that is why my answers seem to continuously reflect that thread.

Q. Were you involved in updating the Jail and Court Services Bureau SOP's?
A. As a manager now updated versions come routed through me and I sign off on them. I would say that is most of my involvement with them.
Q. Did you sign off on the new set that came through in 2008?
A. I don't remember. I know my name is now currently on the jail management list of who has to sign off on any new policies that come through. I can't say that I remember signing off on new policies for the jail SOP's. Although, it would have made sense I would have.
Q. Do you know if there were new policies instituted in 2008 prior to Mr. Munroe's death that were -- and I'm talking about the jail --
A. JCSB.
Q. Yes. Do you know if there was new policies instituted in 2008 prior to Mr. Munroe's death?
A. I don't know. I do know that they do a pretty nice job of updating their SOP's pretty regularly. But I can't tell you that I'm aware of any specific changes.

Q. Have you published any articles?
A. My instant response is no. But I'm trying to think if there was anything that inadvertently had my name on it. Or if I was attached to something. Like illegitimate children; right? Sorry. But I would have to say no. I know it is silly that I have to be thoughtful about that.
Q. And you have conducted other trainings other than the one that we have discussed here today outside of the Ada County Jail? Have you done trainings outside of the Ada County Jail?
A. You mean in the community or something in that realm?
Q. Yes.
A. No. In Los Angeles County Jail, because my coworker and myself were out at a satellite jail, we very often worked with our commissioned staff, and our medical staff, and were constantly educating the team about mental health issues. And talking about what our needs were. And what their role was in that process. So in that realm I was very much an informal educator. And kind of a constant one.
Q. Other than what we already talked about

today, and I am now talking inclusive of the jail, have you provided any other trainings relating to suicide risk or suicide assessment?

A. The templet that is in our materials that are tagged, that has now been kind of transformed into our online training. So my development of that was then updated, and tweaked, and then developed into an online training. So that piece is out there.

Q. And that took place after Mr. Munroe's passing?

A. I believe it would have. I don't remember. Probably. Because I believe Laura, one of our newer social workers, her passion and love is educating and training. It is something I do when I see it is necessary. But it is not my favorite thing to do. So I haven't done a ton of it. Or sought out opportunities in the community to train. But certainly have done it when the need has arisen. So I can't -- offhand, I can say I have taught different versions of our suicide risk reduction. I have taught in our sergeants class about health services and overviews of what health services did. I did teach at a block training about health services,

and what is our vision, and our purpose, and our values. And what is our staff comprised of. And what is our role in the jail. And how we perceive the deputies' role in the jail. So I have taught just various classes between the deputies and our staff. I have taught Lunch-And-Learns on compassion, fatigue, and taking care of yourselves, and participating in various trainings internally. But it has kind of all been in the purpose of just training our staff and bringing them up to speed. Not a matter of, again, kind of a formal community effort or anything like that.

Q. And you haven't done any trainings over at POST?

A. No. That doesn't particularly interest me.

Q. Excluding all of the privileged stuff, all of those categories, what did Linda Scown say to you about the circumstances surrounding Mr. Munroe's death?

MR. DICKINSON: Object. Hearsay. To the extent you know.

THE WITNESS: I don't remember. I have no recollection of a conversation with her. Like

I said, I can vaguely remember her being there that night that we came to central control. I just don't remember conversations with her.

Q. (BY MR. OVERSON) And what about with Dr. Estess?

MR. DICKINSON: Same objection.

THE WITNESS: Would you mind repeating the question? Am I allowed to answer? Your objection is there.

MR. DICKINSON: Excluding anything privileged if you were in a setting.

THE WITNESS: Would you remind repeating the question?

Q. (BY MR. OVERSON) I'm just wondering what Dr. Estess said to you regarding the circumstances of Mr. Munroe's death?

MR. DICKINSON: Object. Hearsay. But you can answer, if you remember.

THE WITNESS: Dr. Estess -- we did talk more recently. That is why his is actually more in my memory. The more recent things are still there. It's funny. He started off not really appreciating Jim. He can come off as someone socially awkward when you first meet him. And then when he really began to see his clinical

skills gained an appreciation for him as a great clinician. And so he talked to me in the realm of -- just the fact that we are lucky to have had him when we had him. And it is too bad he is not there anymore. How wonderful he is. And Dr. Estess is funny in that he uses a language that is excessive and elaborate. And he goes on how wonderful Jim Johnson is. That being said, he also thinks it is reasonable to talk about the fact that -- how does he say it? I think there is a piece that we all kind of feel like -- it is almost unfortunate that Jim is in this position. Because he is such a good clinician. That this kind of spotlight is on him. And that he must feel awful. And Dr. Estess does have this compassionate side. So he also recognizes the strain that this has on Jim. So he is thoughtful both about kind of how lucky we were to have had him. But at the same time it is unfortunate that these circumstances kind of surround him at the same time.

Q. (BY MR. OVERSON) Anything else that he said?

A. Those are the main take-away pieces I took from the conversation. Not that I can

recall.

Q. I'm sorry, do you remember how many times you talked with Shanna Phillips and Jim Johnson?

A. I don't.

Q. Do you know if it was more than once?

A. Again, I know we talked once. It would have made sense for us to talk about it in the context of this is a really unfortunate event. Let's make sure we understand what happened. And kind of debriefing and processing it with Jim. But I can't say that I distinctly remember more conversations.

MR. OVERSON: I think that's it.

MR. DICKINSON: Read and sign.

(Deposition concluded at 5:17 p.m.)

(Signature requested.)

REPORTER'S CERTIFICATE

I, MONICA M. ARCHULETA, CSR No. 471, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 12th day of January, 2011.

MONICA M. ARCHULETA, CSR NO. 471
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636

My commission expires August 3, 2012

MONICA ARCHULETA NOTARY PUBLIC STATE OF IDAHO

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EXHIBIT B

GARY RANEY DEPOSITION TRANSCRIPT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,	)	Case No. CV-OC-2009-01461
Plaintiffs,	)	
vs.	)	
ADA COUNTY, a political subdivision of the State of Idaho; et al.,	)	
Defendants.	)	

COPY

EXHIBITS BOUND SEPARATELY

DEPOSITION OF GARY RANEY

DECEMBER 3, 2010

REPORTED BY:

MONICA M. ARCHULETA, CSR NO. 471

NOTARY PUBLIC

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,
Plaintiffs,
vs.
ADA COUNTY, a political subdivision of the State of Idaho; et al.,
Defendants.
) Case No. CV-OC-2009-01461

DEPOSITION OF GARY RANEY
DECEMBER 3, 2010

REPORTED BY:
MONICA M. ARCHULETA, CSR NO. 471
NOTARY PUBLIC

THE DEPOSITION OF GARY RANEY was taken on behalf of the Plaintiffs at the offices of Jones & Swartz, PLLC, 1673 W. Shoreline Drive, Suite 200, Boise, Idaho, commencing at 10:00 a.m. on December 3, 2010, before Monica M. Archuleta, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES:
For the Plaintiffs:
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For the Defendants:
ADA COUNTY PROSECUTOR'S OFFICE
BY: MR. JAMES K. DICKINSON
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EXHIBITS PAGE

GARY RANEY,
first duly sworn to tell the truth relating to said cause, testified as follows:

EXAMINATION

QUESTIONS BY MR. OVERSON:

Q. You are Gary Raney?
A. I am.
Q. Ada County Sheriff?
A. Correct.
Q. Have you ever had your deposition taken?
A. Yes.
Q. How many times?
A. Two or three. Four.
Q. Do you remember those cases?
A. One was -- what was his name? McClure. And I don't remember the others. If I recall correctly, like when I was a deputy, there would be a traffic crash that I was not involved in as a party, but because I had investigated the crash. They were suing each other and I was deposed.
Q. Have you been deposed in any cases where it involved a death at the jail?

A. Yes.
Q. Other than McClure?
A. No. Not that I recall.
Q. Do you know how many suicides have taken place in the Ada County Jail over, say, the last five years?
A. Two.
Q. When was the -- I mean, obviously Mr. Munroe. When was the other one?
A. I don't recall. Actually, I don't recall the specifics of it. I was just looking at some of the numbers. The number of times that we prevent suicides. And I actually didn't even recall that there was the second one until I saw the statistical report on it.
Q. Do you know how that suicide took place?
A. No. As I said, I don't even recall that until I saw the report.
Q. You are familiar with the process. But let's just go over some of the basic rules. We are getting this down on the record. So it is important to verbally state your answer rather than nodding your head. "Um-hmm" and "huh-uh," they just really don't work very well. I will

try not to talk over the top of your answers. If you would also try not to talk over the top of my questions. Let me finish my questions. But if I step on your toes as you are answering, and you are not done, feel free to say so. Don't be shy.
A. I won't be.
Q. I didn't think you would. And the same. If you need a break, just say so. I'm not very good at keeping track of the time, so, Jim, if you would be so kind as to take over that burden.
MR. DICKINSON: Timekeeper.
MR. OVERSON: Yes.
Q. (BY MR. OVERSON) Let's just go forward here. I think you are familiar with the process. You are the Ada County Sheriff?
A. Correct.
Q. And in that capacity you are the highest ranking official over Ada County Jail?
A. Correct.
Q. And you're responsible for the operation of that facility?
A. Correct.
Q. And for setting policies and procedures for the operation of that facility?

A. The ultimate oversight of those.
Q. You are the ultimate say over the policies?
A. Yes.
Q. That would also include making sure that those policies are followed?
A. Ultimately; yes.
Q. Are you familiar with the policies that have been adopted at Ada County Jail?
A. It depends on what level. We have -- of course, if you think of policy as everything from very black-and-white do's and don't's down to levels of instruction. And a lot of the levels of instruction I'm not familiar with, because I'm not the expert in those anymore. It has been some number of years since I've actually worked in the jail. There are many capable people who are employed in the jail to establish what is best practice. And those policies, out of the many divisions of the sheriff's office, the jail being one of them, there is a number of operational procedures and policies that I am not directly familiar with.
Q. Are you familiar -- for a given policy, from what I hear you say, is that you are kind of

relying on the expertise of others if it is something that is not within your expertise?
A. Correct.
Q. But you would have a general understanding of the purpose behind the policy?
A. Yes, sir.
Q. Now, let's just kind of briefly go through the chain of command. Linda Scown, she is captain?
A. She is retired. She was the captain over the jail.
Q. And that was during the September, August period of '08?
A. Yes.
Q. And what would her responsibilities include?
A. We would refer to her as the bureau director or jail administrator. Those are synonymous in the jail. So she was over all of the operation of the jails. Each of the four main bureaus of the sheriff's office had a captain. Two of them have since retired now. Had a captain over each of those bureaus. So one of those bureaus was the Jail and Court Services Bureau that she was in charge of.

Q. And would that include the medical unit?
A. Correct.
Q. And in that capacity was she also responsible for the development of policies and procedures governing the jail?
A. She is the executive level within the jail. So, again, in a lot of the policies and procedures, then the expertise lies at a level below her just as it does with me. So people would develop best practice policies and put them in place. She would have the ultimate oversight over the jail as I have the ultimate oversight over the agency.
Q. And while she is relying on people under her with expertise to develop the specifics of policy, she, too, would have a general understanding at least of the purpose of the policy?
A. You would probably need to ask her that.
Q. But you would expect her to have that --
A. A general understanding; yes.
Q. Okay. And Kate Pape, you are familiar

with her?
A. Of course.
Q. And in the September, August period of '08 what was her capacity at the jail?
A. So within the bureau of the jail there are several divisions. One of those is health services. And Kate is the manager over health services. So that is, generally speaking, the physical and mental health services of the jail.
Q. And her title has been -- she has had several titles used to describe her position.
A. Health services manager.
Q. But there has also been other terms or titles. But it is the same capacity? Is that your understanding?
A. She probably has professional titles. But her title in the organizational structure is health services manager. It may be referred to as health services administrator, but that is a somewhat synonymous term.
Q. Apples and apples?
A. Yes.
Q. And are you familiar with the responsibility at the Ada County Jail that she held? What kind of responsibilities she had?

A. Yes.
Q. Can you explain those?
A. She has the operational oversight overseeing that our physical and mental health services are delivered constitutionally. And to the level that we are able to meet within our budget.
(Exhibit N marked.)
Q. (BY MR. OVERSON) You have been handed an exhibit there. Have you seen that document before?
A. Not to my knowledge.
Q. It appears to be a job description for the health services administrator?
A. I would agree.
Q. And it has primary job responsibilities listed there. Moving down towards the bottom portion there is reference made there to The National Commission on Correctional Health Care Standards?
A. Yes. Let me read it. Yes.
Q. You would agree then that her responsibilities include periodic inspections of clients and facilities to insure that accreditation with NCCHC is maintained?

A. Within her ability to do that. So assessing the weaknesses; yes.
Q. And that would be one of her responsibilities?
A. Yes.
Q. And then taking steps to address those weaknesses?
A. If they were within her control.
Q. And she is the highest ranking official other than Linda Scown and yourself over the mental health unit?
A. In between Linda Scown and I would be Major Ron Freeman.
Q. And what is his status over there?
A. He is the chief deputy. So he is the number-two person in the organization. He is over all of the organization. He is more operational. Where I am more the political person. Then below him are each of the four captains or directors in the bureaus.
Q. But Ms. Pape, she, too, is responsible for setting policy and developing procedures within the medical unit?
A. Yes.
Q. And that would fall -- she's a licensed

social worker?
A. I believe she still is.
Q. So she would be one of the people that you would rely on her expertise in the development of the policies?
A. Yes.
Q. And to some extent you rely on her to make sure that those policies and procedures are followed within the medical unit?
A. Yes.
Q. In meeting those obligations in terms of NCCHC accreditation, would you agree that documentation is an important part of that?
A. Yes.
Q. In general, would you agree that Ada County has incorporated the NCCHC standards and practices into its written policies?
A. Yes. To the best of our ability. That is one of our benchmarks that we try to achieve.
Q. Can you explain why? Why that has been set as a benchmark?
A. NCCHC, the Idaho Sheriff's Association, different functions of the organization, we use what I would call probably best practice models against our own practices. So in order to try to

achieve -- for example, the Idaho Sheriff's Association standards encompass almost everything within the jail operation. Not nearly as technical as NCCHC. But we use those, just as any organization when using an accreditation process, to try to use that process to identify what are our weaknesses, what are our strengths, where can we improve. And that process allows us then to take the resources that we have against those weaknesses and say where should we best shore those up. So putting it into context the NCCHC, the health care standard, is a standard that we want to achieve. But we have to try to achieve that within many other obligations. First being security of the jail. And so in all of those obligations it helps set a standard and say we may be missing the mark here, here, and here. And so now with the available resources we have, when in all of these different areas we may miss a few marks here or there, or things change, where should we put the resources to best manage the jail.
Q. And is it fair to say that the reason that you chose the NCCHC standards as a benchmark for operation of the jail is for the protection

of the inmates?
A. No. I don't see it that way. I think NCCHC is a good national standard for a benchmark to try to achieve. But there are many standards that are in there, just as with any of these processes, that don't jeopardize the inmate's safety just because you don't meet those. Just like the security aspect. There is security aspects of the jail that we may not meet, but that doesn't mean that somebody is going to escape.
Q. Right. And my question to you is, those are goals in place. What are the goals designed to satisfy? That is probably a poor way to ask that question. So let me try it again. You have set benchmarks, and you have collected, among others, the NCCHC standards; right?
A. Yes, sir.
Q. Okay. And you have done that. And while you may identify weaknesses, areas that you could improve on in order to meet those standards, the entire process that you are talking about in terms of selecting those standards, and trying to meet those, do you agree that the reason you are engaging in that process

is for the protection of inmates at the Ada County Jail in terms of their health care?
MR. DICKINSON: Object. Vague and compound. But you can answer.
THE WITNESS: I think that gives us an assessment, a self-assessment, of how we are doing in certain areas of medical and mental health in the administration of health services. But, again, I'm not trying to evade your question. But there are these processes in other parts of the jail that we have had similar assessments. We have recognized those deficiencies in that particular assessment and said but that is not the best practice for the Ada County Jail and chosen actively not to try to seek that particular standard. It still helps make us better, because we are still going through the process. NCCHC, obviously, is probably the best standard out there overall to use for that assessment process.
Q. (BY MR. OVERSON) I understand that. And my question is, are you trying to achieve those standards? And going through the process of identifying weaknesses, and making conscious decisions as to whether or not to focus resources

in that area. And thus far I think I have stated it correctly?
A. Yes. I agree with that; yes.
Q. Okay. And the reason you are going through that process is so that you, as Ada County Jail, can meet your constitutional obligations to inmates to provide health care?
A. Oh, I think we meet constitutional obligations regardless of NCCHC. If we did not participate in NCCHC at all we would still meet constitutional obligations.
Q. Okay.
A. Did I misunderstand your question?
Q. I think so. But that is all right. We'll move on. You had indicated that in looking at these NCCHC standards, and other standards that you use as guideposts, I guess, for the operation of the jail, you had indicated that you have identified from time to time areas of weakness or areas that could be improved upon. Right?
A. Yes. There are sometimes areas that help us improve. And sometimes areas that we may be marked deficient in the standard. And then it gives us the ability to say, but do we want to

meet that? Some of the federal standards required for immigration, for example, I very actively choose not to meet. That doesn't threaten the care of any inmate. It is about privileges. It's a little different example, but.
Q. Privileges? What do you mean?
A. Some of the inspection process for the Immigration and Customs Enforcement branch is more rigorous for criminal aliens than for United States citizens. So I choose not to house criminal aliens.
Q. I see. In terms of health care provision. And I mean medical and mental health care. We are going to exclude dental. I know you take care of that over there, as well. But let's exclude that. In terms of medical and mental health care of the inmates have you identified any areas of the Ada County Jail's operation that is a weakness that you guys are concerned that you could do better?
A. Weakness is a subjective decision. There are always areas any organization or any facility, whether it be Saint Alphonsus, or St. Luke's, or the Ada County Jail, could improve

given the resources.
Q. Have you identified any of those areas, any areas where you want to improve, that you are aware that the jail has been lacking?
A. Again, lacking is subjective. But since you ask that it gets to be my opinion. I think that given the amount of resources that we have invested in health care, physical and mental health care, between 2006 and now, that with the available resources we have done a very good job of putting both of those services in place. Not just with personnel. Adding a significant number of personnel. But actually building the Health Services Unit. Which is the only Health Services Unit in the State of Idaho. At the time it was built, anyway, if it would have been a public hospital, it would have been the twelfth largest hospital in the State of Idaho.
So being a new facility in 2008, and adding new staff, there are always things that we would like to do. But also we have to be conscious of what the taxpayers should be paying. And try to find that balance of meeting the inmate needs giving them physical and mental health. Meeting the constitutional requirements.

But recognizing that it is a rather minimalistic service. Because that is what the government affords.
Q. Budget constraints?
A. Yes.
Q. Has there been occasion when you have requested money from the county to meet a medical or mental health care need of inmates over at the Ada County Jail that you have not been able to obtain those funds?
MR. DICKINSON: I'm going to object. Relevance. Go ahead.
THE WITNESS: I would have to look back. The county for the last I believe two years now has immediately said there will be no new positions. So the door was not even open. I do not recall if prior to that there were unfilled positions in our budget request. We have added a significant number of positions since 2006. January of 2006. But I don't recall around the 2007, 2008 budget year if there were unfilled positions in those requests.
Q. (BY MR. OVERSON) How would we find that out? Do you have documentation relating to that?

A. We should.
Q. You should?
A. Yeah. The sheriff's office budget requests for the commissioners. We should have that.
Q. Did it ever come to your attention that the jail wasn't meeting its standards for providing 14-day health assessments to inmates?
A. Yes, sir.
Q. Can you explain that?
A. I knew that the NCCHC standard, which I believe is 70 percent of screenings in 14 days, that we didn't have staffing that allowed for that to happen.
Q. And that was when?
A. I think it significantly came to my attention probably in 2006 or 2007. We were adding medical staff. And we were looking at -- at one time, for example, deputies were delivering medication throughout the jail. If you think about that, deputies don't -- can't look at a pill and say that is not what that is supposed to be. As well as inmates come up and would say, "Hey, what about this medical issue?" Deputies aren't trained at that level of medical

care to answer those questions. So one of our priorities in medical, for example, was to have more medically trained staff deliver the medications in the jail. That is just an example of the resources. And I want to say my best guess would be probably 2007 or 2008 is when the conversations were. We have taken care of a lot of things. But one of the things that we are not doing that we want to is to have that 14-day medical screening.
Q. I'll represent to you, and just for the purposes of maybe jogging your memory, that the jail went through an accreditation survey with NCCHC in 2004. Or at least the jail received a report from them that identified the 14-day assessment as an area that needed to be worked on. Does that refresh your memory at all?
A. I was not the sheriff in 2004. I don't recall being part of that conversation.
Q. You were the undersheriff at that time?
A. Correct.
Q. Did you have responsibilities as the undersheriff that related to the medical unit?
A. Yes, in a similar chain of command. But that level of specificity -- I may have been

in that conversation. I don't recall it.
Q. All right. But at some time in 2007?
A. I would guess.
Q. Approximately? Before 2008?
A. I think so.
Q. And what steps were taken to try to improve that area?
A. I know that we were, and, again, it is about resources, trying to find a way to better meet that standard. There was a plan at one time to try to use some of the existing staff. But then the number of calls and the number of -- of course, medical grievances is a high liability area for the jail. So you take away from that core area of concern. Do the screenings. And Kate had different sort of strategies to try to figure out how to meet that standard. And I think we hired a contractor at one point to try to meet that.
Q. Ricky Lee Steinberger (sic)? A physician's assistant?
A. I believe so.
Q. In 2008 the county had contracted with several medical health providers; is that correct?

A. I couldn't speak for the rest of the county. The sheriff's office has contracts with a physician, with a dentist, and a psychiatrist. And then on occasion we have had contracts with lower-level staff. Traditionally, it is always the physician, the dentist, and the psychiatrist. And then at various times as we needed additional resources we would have lower -- contracts at lower levels in the organization.
(Exhibit O marked.)
Q. (BY MR. OVERSON) This would be one of those -- you have been handed Exhibit O. You have seen that before; is that correct?
A. It says Exhibit 0?
Q. Is Exhibit O a document you have seen before?
A. Not to my recollection.
Q. If you go to the last page. Is that your signature?
A. Yes.
Q. Did you review the document before you signed it?
A. I rarely review the documents -- the actual document itself. I probably sign ten of these a week.

Q. Ten of these contracts?
A. Different contracts with the sheriff's office.
Q. Do you recognize the name Steven Garrett?
A. Yes, I do.
Q. As a physician? Doctor?
A. Yes.
Q. And he was under contract with Ada County Sheriff's Office or Ada County --
A. Correct.
Q. -- to be the physician with final medical say over the provision of health care at the jail?
A. Correct.
Q. And you contracted with him to help the jail in meeting the NCCHC standards?
A. We contracted him as the overseeing physician. A part of which is hoping that we meet the NCCHC standards. But we didn't contrac with him for that.
Q. But that was part of the idea was that he would help the jail in meeting those standards?
A. Yes

Q. We talked about policies in general. Is it your testimony that the written policies at Ada County Jail are voluntary?
A. I don't really understand.
Q. That they are suggestive rather than mandatory?
A. There are various levels of policy and procedure within the sheriff's office. And so some of those levels, for example, deadly force is pretty much a directive. Those stream all of way down to what is our language as standard operating procedures, which are guidelines for what you do. But there are many circumstances because we are always dealng with human beings in what we do where we want good judgment to override a policy that otherwise may potentially harm somebody or cause something negative to happen.
Q. Correct me if I'm wrong, but what I hear you saying is that there is areas of the policy that provides for staff members to have discretion?
A. Yes. It is right in our policy manual. We want people to use good judgment and do the right thing.

Q. And that is why you try to hire individuals that are able to do their job and are good at their job?
A. Yes, sir.
Q. So they make good decisions?
A. Yes, sir.
Q. But then there is portions of the policy that are mandatory; is that correct?
A. Yes.
Q. How does a staff member determine when they read your policies whether what they are looking at is mandatory or provides for discretion?
A. In the front of -- there is a statement typically in front of the policy manual, as well as in the front of the SOP, that gives them guidance in their judgment. And the standard operating procedure is less directive than the agency policy. The agency policy is more black-and-white. Standard operating procedures are more guidelines, as I think you said.
Q. If the written policy uses language like "shall" --
A. That would be more directive.
Q. So that would be mandatory?

A. Yes. With the caveat of the overall policy is to do the right thing.
Q. With regard to Dr. Garrett. Part of that position that he took contractually with the Ada County Jail, that involved provision of mental health services, as well as medical services?
A. Yeah, the M.D., the overall M.D., we expect to have close interaction with the psychological services. We contract with a psychiatrist, Mike Estess, who has, to the best of my knowledge, an equal medical credential of the M.D. His psychiatric area. While our M.D., in this case at this time Garrett, sort of is our primary oversight. I would expect in many psychiatric areas to defer to Dr. Estess' expertise.
Q. I just want to make sure I understand your testimony. So Garrett is going to have final medical say. But he is going to rely on Dr. Estess in terms of his expertise in the area of psychiatry?
A. As a normal course of business; yes.
(Exhibit P marked.)
Q. (BY MR. OVERSON) Take a look at this

document. I believe the last page has your signature on it, as well. Or, rather, second-to-the-last page. Is that correct?
A. Yes, sir.
Q. Did you review this one before you signed it?
A. I doubt it. Some of these I look over. And some of them -- hardly any of them do I read verbatim. Some of them I look over and some I do not. I presume these are from about '07 or '08 and I would have no recollection of which it was.
Q. But you know what it is?
A. I do.
Q. What is it?
A. It is a contract with Dr. Estess for psychiatric services between Ada County and him.
Q. You keep indicating that you don't remember specifically these contracts. And I understand that you have a lot of contracts put in front of you.
Is this a situation where you are relying on your staff to contact individuals that are qualified, review the documents, make sure the contract satisfies the needs and --
A. Absolutely.

Q. And then they generally tell you, as it is put in front of you, this is the contract for the psychiatric services?
MR. DICKINSON: And I'm going to object real quickly to the extent that this question heads into attorney-client privilege material. But with that concern, and if you have any concerns in that area, we can certainly talk about them. I'm not sure the question is aimed there. But to the extent you feel it necessary to answer something that might involve that.
Q. (BY MR. OVERSON) Yeah, if you had an attorney review the contract for legality, or whatever, and advised you, don't worry about that. I'm asking about non-attorneys.
A. Typically in any of these sorts of contracts there is sort of a team of people who put together from the practitioner side, and from the legal side, to create the document.
Q. And that would be explained to you in general terms before you sign it?
A. Typically.
Q. All right. So let's turn to the second page. Mr. Estess, according to the agreement, under Part B, agreed to provide direct patient

care services; right?
A. Which sub are you on?
Q. B.
Q. Which sub-sub are you on?
Q. Generally that line. The first line.
A. Give me a minute.
Q. Go ahead. Take your time.
A. Would you repeat your question, please?
Q. Just that Mr. Estess agreed to provide direct patient care services to inmates?
A. Yes, sir.
Q. And that includes discharge planning?
A. Yes, sir.
Q. What is that?
A. We seek to try to close the gap between when any inmate walks out the door and where they may be able to access community services. Whether it be mental health, or substance abuse treatment, or employment, or any of those areas. Much of the problem with any of that is that there is a lack of services between when a person walks out the door of the Ada County Jail and where they can connect, given that they probably don't have an income, with community services. But if at all possible, for example, somebody

with a mental illness, when they walk out the door of the Ada County Jail, we would like him to help us connect them with services in the community that will keep them stable.
Q. That is the idea, anyway?
A. Yes.
Q. And the discharge planning, does that relate at all back to that 14-day assessment?
A. Not to my knowledge.
Q. Then Subparagraph 7. Medication Recommendation and Management. Do you know what that would entail in terms of Mr. Estess?
A. There is a significant amount of psychotropic medication used in the Ada County Jail. And some of those are dangerous in a sense that if another inmate was to be able to get ahold of those, the narcotic, for example. That is typically the medical area. But if another inmate was able to get ahold of those psychotropic medications it may cause a severe reaction to them. So managing our formulary of psychotropics both for the safety of the jail, as well as the cost of the taxpayers, it is important that we rely upon him. Because there is many expensive medications out on the

community market that can be just as effectively prescribed with something much less expensive, much safer, and just as effective within the jail.
Q. Would that include -- the language "medication recommendation and management," woul that include Dr. Estess informing your staff over at the jail of possible side effects of medications delivered?
A. I don't know.
Q. Do you know if there has been any training put in place to make sure that your staff members over at the jail are familiar with common side effects of medication that is being distributed?
A. By "staff members," do you mean medical staff?
Q. Anybody.
A. Or deputies? Having not gone through it I can't speak directly. But I know that an RN, or a physician assistant, those people are familiar with side effects of medication. Our deputies have gone through at various stages sort of a medication awareness. And now less since we have medical staff delivering medications. To my

understanding, part of their medical training is to have an understanding of that.
Q. You would expect your medical staff to have an understanding of the side effects of medication being distributed; is that right?
A. Generally speaking. And, again, that is part of the process of when -- if we are talking about medication it is going to pass through not just whoever is prescribing the medication, but the pharmaceutical services before it actually ends up with the inmate. So, again, it is a system. It is not just upon Dr. Estess or any one person.
Q. So I'm just trying to understand here. Let's take an RN that is distributing medication. They distribute medication; right?
A. Distribute. Not prescribe.
Q. Right. Would you expect your RN's to be able to have a sense of what the side effects of the medication is that they are distributing?
A. Every medication? No, I would doubt it. The common ones, I suspect so. But, again, to me I see it more as just like going to your general practitioner physician. They prescribe something. And then you go to the pharmacist.

And sometimes the pharmacist says, "Oh, by the way, you are taking this, and this, and that doesn't work well together." Those two people together as they are working in the community is the same way that I see the jail working.

Q. Would you expect your RN to at least understand the major side effects associated with a medication that is being distributed to the inmate?

MR. DICKINSON: I'm going to object as vague. But you can answer.

THE WITNESS: "Presume" is probably a better word.

Q. (BY MR. OVERSON) Okay. You would presume that the RN would make themselves familiar at least with --

A. Yeah.

Q. All right. And then Dr. Estess agreed to undertake the direct patient care services. And part of that was the supervision of inmate psychosocial care. What do you understand that to mean?

A. He has general oversight of our mental health staff and staff cases. To see the most severe inmates. To deliver that more direct

care. So, to me, he is most valuable, because of his experience and his connections out in the community. Every once in a while he will come into my office and we'll talk about how the level of care is going in the Ada County Jail. And he has a long history with the jail. So he understands the constraints and opportunities going way back to -- prior to when we had added health care staff and built the Health Services Unit. So he kind of keeps me on track from an oversight level.

So in the big picture I see him helping me understand the level of service of psychosocial care. And then at the direct operational level he works with the master's in social work, the MSW-level employees, to make sure that they are staffing their cases and managing their cases as best they can.

Q. And that is during the 2008 period, as well?

A. Correct.

Q. The mental health staff. I think that is the term that you used. Would that be primarily the social workers over there?

A. They deliver the more psychosocial end

of it as compared to -- a lot of times the medical, the substance abuse, and the mental are all hand-in-hand.

Q. And the social worker kind of plays more on the psychological rather than the psychiatric?

A. Yes, sir.

Q. So is it fair to say that Dr. Estess was responsible for supervision of the psychiatric social workers at the medical unit?

A. By reading this I'm just confirming my understanding that he does not have a supervisory role over those people.

Q. Okay. He doesn't have a supervisory role over the individuals. I think I understand what you are saying. And just correct me if I'm wrong here. But by supervision of inmates' psychosocial care, it is supervision over the provision of care systemically rather than over individual staff members?

A. Yes, sir.

Q. Okay. Structural?

A. Yes.

Q. During that 2007 and 2008 period you said you periodically met with Dr. Estess. Was

that quarterly? Monthly?

A. It was not scheduled.

Q. Did you have quarterly meetings with the medical health staff to review provision of health care?

A. No, sir.

Q. Did you appoint a representative to meet with them to make sure that the health care was properly being provided?

A. With the health care staff?

Q. Yes.

A. They meet, I believe, weekly.

Q. Okay. So you didn't have quarterly meetings with them, whether directly or through your representative?

A. I'm sorry. I did not?

Q. Right.

A. Through my representative. So Captain Scown and Lieutenant Shepherd has a pretty good history of the jail. And then Kate Pape. So it would mostly be between Captain Scown and Kate Pape who would have the meetings with the staff. And those were very regular.

(Exhibit Q marked.)

Q. (BY MR. OVERSON) Do you recognize

Exhibit Q?
A. Not specifically. I know what it is.
Q. So what is Exhibit Q?
A. It appears to be a Professional Services Contract between the sheriff's office, me, and Ricky Lee Steinberg. A physician's assistant.
Q. To provide physician assistant professional medical services to inmates of the Ada County Jail?
A. Yes, sir.
Q. Is this the person you were referring to that the jail -- or the Ada County Sheriff's Office had contracted with to provide the 14-day health assessments?
A. I don't actually recall this person individually or the position that obviously this person filled.
Q. The contract, though, was entered into for the purposes of obtaining professional services to provide those 14-day health assessments?
A. Yes.
Q. And the 14-day health assessment under this agreement 3(i) were to be provided in

accordance with the NCCHC standards?
A. The caveat being as set forth by the supervising physician and that meet the NCCHC standards. So those two things together.
Q. So the assessments being provided by the contractor, the county expected that they would meet the requirements of the supervising physician; right?
A. That was our hope; yes.
Q. Well, that is the purpose of entering into the agreement; right?
A. That was our hope; yes.
Q. And then that those 14-day health assessments would also meet the NCCHC standards?
A. Yes.
Q. And that was an area that was identified as a concern over at the jail as to whether or not that was taking place; is that right?
A. That was an area that was identified by NCCHC that we wanted to meet, because we wanted to meet that standard. But, again, balanced against the other resources that we had. The resources that we had and the other needs that we had.

Q. But you contracted with Mr. Ricky Lee Steinberg to make sure that those standards were met?
A. As best we could; yes. That was our hope.
Q. As best he could provide the jail that service? I guess that is my question.
MR. DICKINSON: Object. Vague. You can answer.
THE WITNESS: Could you repeat that, please?
Q. (BY MR. OVERSON) Well, the Ada County Sheriff's Office contracted with Ricky Lee Steinberger (sic) to assist the jail in meeting the NCCHC standards for 14-day health assessments?
A. Yes. That was a primary purpose of the contract.
Q. That is what you thought you were getting?
A. That is where we wanted to put those resources. I can't say as to whether or not we knew we would meet them with one contractor.
Q. But that was the hope?
A. Yes.

MR. OVERSON: Why don't we take a short break here.
(Recess.)
Q. (BY MR. OVERSON) We were talking about Ricky Lee Steinberger (sic) and the 14-day health assessment.
A. Steinberg.
Q. Steinberg. I keep saying Steinberger. Sorry. Let's jump back to Estess for just a moment.
Was it your understanding that Dr. Estess would be providing direct psychiatric care to inmates? And by that I mean that he would show up at the jail periodically and meet with inmates that needed psychiatric services?
A. Only those at the most severe level or the most complicated cases.
Q. And what do you mean by that?
A. We have typically about 70 chronically and mentally ill in custody at any given time right now. So he does not have the time to meet with those. That is what the MSW's do. But on the most severe cases then he may meet with them individually. Or if there is a connection between, for example, Health and Welfare and the

community, a severe case out there. He is a good conduit between some of the community providers and jail providers. He does not, nor do we expect him to, to meet with every mentally ill inmate.

Q. By most severe, though, can you help me understand what you mean by that?

A. My belief is, my expectation is, that he only meets with those that are in question or maybe the MSW's come and say, "Hey, this is what I think the diagnosis is. Or this is what I think the plan --" there is a word for it. But the plan that we should have. "But would you go talk to him and see."

So he does not meet with many inmates. It is mostly staffing with the staff. Staffing cases with the staff.

Q. Were you referring to like treatment plans?

A. Yes.

Q. So an inmate at the county jail -- and, again, we'll talk about the '07, '08 period -- their conduit to psychiatric service with Mr. Estess would be through the social workers?

A. The social workers deal with the

majority of the cases in the jail on their own. And then he would come in and do reviews, interact, have meetings with them. How are things going. Then the level of care that potentially exceeded their level of comfort he would meet with those people one-on-one. He was also very responsible for what we call 18 to 11's, which is competencies. A good example, which probably even during this time, was Mr. Delling. If you recall the homicide case where he killed two people and shot a third. Then when they say that they are not competent to stand trial he becomes pretty involved in those cases.

Q. And I guess what I'm trying to get at is if an inmate is going to see Dr. Estess it is going to be one, because it is a severe case. And, two, because it has been brought to his attention by one of the social workers. And I imagine other staff there, as well. Like Karen Barrett in a physician assistant role.

A. My terminology would be "complicated" would be a better word than "severe." And I believe he also, because of his connections in the community, may know somebody who is in jail

for continuity of care. Really, that awareness could come from anybody inside or outside of the jail.

Q. You use the term "continuity of care." Was that limited to inmates who had the most serious mental illness?

A. No. I mean, it is all a system or a priority. Again, substance abuse treatment. Or medical services or mental health services. We are able to do our job better if we have continuity of care with the community providers. But oftentimes that is very, very difficult to have.

Q. Was it your understanding that your staff in the medical health unit was communicating with private doctors and psychiatrists and psychologists out in the community about the inmates health care?

MR. DICKINSON: I'm going to object. Vague. You can answer.

THE WITNESS: Yes. My understanding is that our staff does have conversation with community providers.

Q. (BY MR. OVERSON) So if somebody is in the jail, and it comes to their attention that

the individual is under a psychiatrist's care prior to coming to the jail, would your expectation be that that individual would contact the doctor?

A. That would be circumstantial. Sometimes just as with -- if I could use the medical analogy to apply it to the mental health. Somebody comes into the jail and maybe was injured from a fight before they came in the jail. There would be no purpose of contacting their medical physician in the community to deliver that care.

Q. A black eye is a black eye. You don't get to talk to the guy.

A. So the similar analogy applies to mental health services. Sometimes those are episodic. And, really, community providers don't -- it is going to be started and finished probably while they are in care. Other times it is going to be a much longer term in the interest of the community. Then we might make that contact.

Q. Correct me if I'm wrong. If you have an inmate that comes in with just your typical depression. They have a doctor that they have

been treating with. Prescribed anti-depressants. Seems to be working. And then comes into the jail. You wouldn't expect your staff to make contact with the physician under those circumstances; would you?

A. Expect, no. Not unless there was a cause to.

Q. But if the individual had a more serious situation that the jail would be addressing while the inmate is in custody you would have an expectation that they would contact that outside physician?

A. I would rely upon their expertise for that. Because typically the jail environment is so isolated and so different. I'm more concerned about continuity of care upon release. Say, for a chronically mentally ill person. Can we keep them stabilized after they walk out the door. As you can imagine, a great number of people are depressed while they are in the jail. Once they walk out that element of their mental health is probably going to be satisfied. So it is really about how do we now take care of them mentally out in the community. So, again, that contact -- to say it is an expectation isn't enough

information to make that judgment. If they see a need for -- you know, for pharmaceuticals, or to help them with their diagnosis, or to help them with a doctor's care after they leave the jail, then I would hope that they would.

Q. If an individual had been recently hospitalized in a mental health institution for suicidality, wanting to take their own life, and it was known to your staff that it was only a matter of two to three weeks prior to the person coming into your jail, and that individual was going to be there more than 14 days, would you expect your medical staff to make contact with his physician?

MR. DICKINSON: Object. Compound. I think it mischaracterizes facts. Lack of foundation. Assumes facts not in evidence. But you can answer.

THE WITNESS: Not necessarily.

Q. (BY MR. OVERSON) No?

A. Again, we have a great number of chronically mentally ill in the jail. And so all of those conditions I would rely upon their professional expertise as to whether that had a value to our ability to treat that inmate. Or

that physician's ability or psychiatrist's ability to treat that inmate after they leave the jail. So in many of these cases I don't believe that finding out what happened a month or six weeks ago under completely different circumstances than what will happen in the next few days within Ada County Jail is necessarily relevant.

Q. Once they come into the jail, though, you would agree with me that that is a risk factor in terms of knowing that that inmate has been in a mental health institution for suicidality, attempted suicide recently, that that would be a serious risk factor in terms of assessing whether or not they were suicidal in the jail?

A. Yes.

Q. And that is actually written into the policies at the jail; correct?

A. I couldn't speak directly. But that would make sense.

Q. You have a number of policies that are addressed trying to reduce the risk of suicide taking place within the jail?

A. I think we do a very good job at

preventing suicide.

Q. That wasn't the question. The question was you have a number of policies that are addressed to that?

A. Yes.

Q. Do you know Karen Barrett?

A. Yes.

Q. Do you know in what capacity she is there?

A. She is a physician's assistant.

Q. Do you know what her responsibilities were over at the jail in '08?

A. She was among the highest level of -- a physician's assistant level in the jail is the highest level of full-time staff. Full-time noncontractual staff. So they are actually employed and regularly work in the jail. It is the highest level of medical authority there. Essentially 40 hours a week.

Q. Just so I know that I understand it. I hear you saying that Barrett was the highest level medical provider in the medical health uni in terms of actual medical care; is that right?

A. Yes. So Kate is the manager over the mental health unit. But has an MSW, I believe,

level of education.
Q. So she doesn't prescribe medication?
A. Correct. So a physician's assistant has a higher level of education about medical care. So the operational level. Then the highest level of medical education in the jail full time is the physician's assistants. And Karen was one of those.
Q. And then it would go non-full time. And that would be Estess, and Garrett, and Steinberg?
A. Steinberg would not have been above them. Steinberg is a physician's assistant. That was a specialized unit. So really above Karen was at that time Garrett.
Q. Did Barrett have responsibilities relating to the medical intake screening that takes place during the booking?
A. Any of the medical staff who might have done an intake screening would, for medical expertise, ultimately reach Karen if she was the physician's assistant on duty at the time. Or on call.
Q. Or on call? Is she on call 24/7?
A. No. I think there was -- currently

there is two physicians -- let me think. I presume we are talking about this time period. And I don't recall. I don't recall.
Q. But at least one; is that right? At least one person was on call 24/7?
A. Somebody was always available to be called.
Q. But she wasn't endowed with the authority to prescribe treatment directly; was she?
A. Medical treatment?
Q. Yes.
MR. DICKINSON: The question is vague.
MR. OVERSON: I think it is, too, Jim. Let me take another run at it.
Q. (BY MR. OVERSON) She didn't have the authority to direct medical treatment outside and independent of a physician?
MR. DICKINSON: I think that's vague. But you can answer.
THE WITNESS: I'm not sure I understand.
Q. (BY MR. OVERSON) Let me try again. And that's okay. That is one of the other rules of depositions. If you don't understand just

feel free to say that and I'll give it another run.
As a physician's assistant you would agree that she would have to be providing treatment under the direction of a physician?
A. That is correct.
Q. But the Ada County Jail doesn't have a full-time, 40-hour physician? They have a contract physician?
A. That is correct.
Q. Who is on call 24/7?
A. I don't believe that is within the contract. Typically they are on call as they are available, which is the majority of time. And then if they are not available they will provide somebody else. Again, I don't remember that particular time frame. But that is the way it has typically been is I'm going to be gone so you can call this other physician.
Q. So if Karen Barrett is providing medical treatment -- and you have testified that it is under the direction of a physician; right?
A. Um-hmm.
Q. And where she is the highest ranking medical provider in the jail at the time, if

there is treatment, medical treatment going on, with any given inmate in the jail, it is going to be under her authority as directed by the physician?
MR. DICKINSON: I'm going to object as vague. But you can answer.
THE WITNESS: You kind of lost me again.
Q. (BY MR. OVERSON) We've got the physician who sets the treatment.
A. Are we specifically talking about Dr. Garrett?
Q. Yes.
A. Okay.
Q. Or Estess, I imagine. Because he's also a physician; right?
A. Yes.
Q. So either of those physicians would set the treatment for a given inmate. And then the treatment would be administered by Barrett?
A. No, sir.
Q. Can you explain how that would work?
A. And, again, I suppose I have to qualify this with my understanding. Because I don't understand the medical laws about what you have

to do to be licensed as a physician's assistant. But a level of care can be satisfied by an RN. And a level of care could be satisfied by a physician's assistant. The overseeing physician, particularly with a physician's assistant, has to oversee that level of care and make sure that they are comfortable with it. And then as a separate part of the process, when there is a specific issue that the registered nurse wouldn't know about, a question, they may go to the physician's assistant. If the physician's assistant had a situation that they needed more help with, then the default would be to go to our contracting physician. That contracting physician, if not available, typically provides somebody else to be available. But we also have a very good relationship with the hospitals. We send people to Saint Alphonsus all of the time.

Q. In the context of Ada County policy do you know what a treatment plan is?

A. In vague terms; yes.

Q. What is your understanding of it?

A. That is -- again, it is my lay terminology. Not their medical terminology. But they have done enough diagnoses that they believe

they understand what the problem or problems are. And then the prescription, not the drug prescription, but the plan for how that may be treated. And, again, many of these disorders cross medical and mental health and substance abuse issues within the jail. Because we also have substance abuse staff. So that treatment plan may cross all of those. As well as ideally be able to be used once an inmate leaves the jail back out into the community.

Q. And the treatment plan would address the treatment of an inmate; correct?

A. Right.

Q. And that is what Barrett would be operating under in the treatment plan developed by --

A. I couldn't speak to how directive it is. When you say "operating under." I don't know that it directs her. Or so much as it just says here is the intent. And then circumstances may change it. I just don't know.

Q. We have talked about the social workers in the jail. They conduct the suicide risk assessments?

A. Yes, for the most part.

Q. And then they are supposed to prepare a written inmate assessment of that? When they do a suicide risk assessment they are supposed to write it up and document it?

A. I don't know that independently.

Q. Do you know whether it is their obligation to develop a case plan for inmates that they see?

A. I would think not. But I don't know that independently.

Q. And that is what I'm after. I'm trying to gauge your depth of where does that -- how far down in detail does your knowledge go.

A. Not that deep.

Q. Hopefully deep enough. Did you have an understanding as to whether or not the social workers in the Ada County Jail Mental Health Uni should be licensed in the State of Idaho?

A. Yes.

Q. And what is your understanding?

A. They should be.

Q. Has it come to your attention that you had a social worker working in the jail that was not licensed in the State of Idaho?

A. Yes.

Q. When did that come to your attention?

A. Just a few days ago.

Q. Did that surprise you?

A. Yes.

Q. Whose obligation is it over at the jail to make sure that the social workers are licensed?

A. I don't know whether it would be the medical staff or human resources, because of the qualifications for the job. Which would include -- being licensed in the State of Idaho would actually be more of a human resources function.

Q. Rather than the medical staff?

A. Yes.

Q. Have you taken any steps to find out who was responsible for that error?

A. No.

Q. Are you going to?

A. Probably will.

Q. Does that strike you as a serious problem?

A. A concern. My understanding is that that individual was licensed in other states. And so the level of care was there. But

obviously we'll want to comply with the law.
Q. And we are talking about Jim Johnson?
A. Yes.
Q. And the Ada County Jail policy is that it is critical to the professional provision of health services to inmates that the medical professionals be licensed in the State of Idaho?
MR. DICKINSON: Object to the form of the question. Foundation. Assumes facts not in evidence. And vague. But you can answer.
THE WITNESS: It is policy of the Ada County Jail to comply with Idaho state law. I'm not sure that there is any impact on health care. But we want to comply with the law.
Q. (BY MR. OVERSON) So you don't have an understanding as to whether or not there is a policy in place that recognizes that only qualified licensed health care providers are qualified to provide health care in the health unit?
MR. DICKINSON: Object. Vague. But go ahead.
THE WITNESS: I presume there is. Because my understanding is that that is the law. We want to comply with the law. The distinction

that I make is that I interpreted from your question that there is a lesser standard of care because they haven't sent forth a fee and received a certificate from the State of Idaho. And I don't think that that is necessarily the case.
Q. (BY MR. OVERSON) As long as they are licensed in another state you are okay with them in terms of the care that is being provided?
MR. DICKINSON: Object. I think it mischaracterizes his answer. But you can answer.
MR. OVERSON: I'm just trying to understand his testimony.
THE WITNESS: No, that is not at all what I said. I think the difference between having an administrative license from the State of Idaho, which I certainly see the value of, doesn't necessarily mean that somebody isn't providing an appropriate level of health care. Nonetheless, we should have -- he should have had the license. Not having the license doesn't mean that he wasn't providing proper health care.
Q. (BY MR. OVERSON) And your understanding, as you have just described it, you think that is consistent with Ada County written

policy?
A. That is not what I said.
Q. No. I'm asking you.
A. The policy, as I understand it, as well as state law, is that he should have had a license.
Q. And I'm asking you if Ada County -- if your understanding of Ada County policy does draw the connection between licensing and the quality of care being provided?
MR. DICKINSON: Object. I think it has been asked and answered. And it's vague.
MR. OVERSON: I don't think it has been, Jim.
MR. DICKINSON: That's fine, Darwin.
THE WITNESS: No.
Q. (BY MR. OVERSON) No, you don't think the policy --
A. I don't think that licensure is directly related to the level of care.
Q. Okay.
A. I think that somebody could provide an outstanding level of care and happen to not be licensed.
Q. And it is your understanding -- or your

belief is consistent with Ada County written policy?
A. No. The policy is that somebody should be licensed. And they should be licensed.
Q. I think you still have not answered the question. I hear you saying you know that they should be licensed. And you want to comply with Idaho state law. So you want your people to be licensed. Mr. Johnson should have been licensed. We both agree on that; right?
A. Yes.
Q. And you're saying the quality of care that Mr. Johnson had provided was up to snuff; right?
MR. DICKINSON: Object. I don't think that is a fair and accurate characterization.
THE WITNESS: I agree. This is the first time we have talked about Mr. Johnson's level of care. That I can't speak to.
Q. (BY MR. OVERSON) But as I understand what you are saying is that an individual could be providing health care in your jail consistent with the standards of their profession and doing a real good job at it and yet not be licensed; right?

A. Correct.
Q. And that your belief is that the two aren't necessarily connected?
A. I agree. They are not necessarily connected.
Q. So that belief -- my question to you is, is that belief consistent with written Ada County policy?
MR. DICKINSON: I'm going to object. I think it has been asked and answered. And it's vague. You can answer.
THE WITNESS: I have to continue to answer with my words and not yours. Somebody could come in. The best social worker in the world could come into the State of Idaho and provide the best level of mental health care possible.
Q. (BY MR. OVERSON) Right.
A. And not have a license.
Q. Right.
A. And so you are extrapolating my statement from that into what the policy says. The policy says what it says, because we comply with Idaho state law. Which says he should have a license. And should have had a license. That

does not --
Q. Let me stop you. Because you are still not answering the question.
A. I thought we were not going to interrupt?
Q. Well, yeah. But you are not answering the question. I want to make sure this question is very clear.
MR. MALLET: I'm going to give a 30(d) objection right now. You don't have to be a jerk to him. He is trying to answer your question. Frankly, you are asking some pretty poor questions. He is trying to answer your questions. Just slow down and back off, please.
Q. (BY MR. OVERSON) The question is, you have expressed a belief, and I understand it, that a social worker can be in the jail providing the world's greatest care. And it is your belief that that is not necessarily related to whether he is licensed in the State of Idaho.
Is that a fair statement?
A. Again, yes.
Q. And my question -- and I'm not trying to trick you or anything like that. I just want to know if that belief that you have expressed,

if it is your understanding that that belief is consistent with the written policies of Ada County?
MR. DICKINSON: I'm going to object again. I think it is a vague question. I think it calls for speculative answer. And I think it assumes facts not in evidence. But to the extent you can answer. And I think it is argumentative at this point. And I think it has been asked and answered. But in the interest of continuing in trying to do your very best for discovery purposes in this deposition, if you can answer.
THE WITNESS: The question misrepresents my belief and the intent of policy. I think I have explained it.
Q. (BY MR. OVERSON) In my understanding and correct me if I'm wrong, but in August, September of 2008, and I think even going back into '07, the jail was using a system called JICS?
A. Correct.
Q. What is that system?
A. Jail Inmate Classification System.
Q. And my understanding -- and, again, correct me if I'm wrong here -- is that that was

the computerized record system for the security side of the jail?
A. No, sir.
Q. What is it?
A. Jail Inmate Classification System. The initial classification, which is what you are probably referring to, is the initial set of questions that helps us determine where to place somebody or whether there needs to be an immediate level of care. So it asks a series of questions, as well as observations from the point of the arrest, that gives us a report. So one of the questions are, are you suicidal? And there are questions about alcohol. There is questions about sexual activity. Things like that that help us determine the initial placement of an inmate.
Q. And you are talking about that initial intake questionnaire form. The medical screening form. Is that right? When you are talking about all of these questions?
A. Yeah. They all sort of tie together.
Q. There is a form that the deputy goes through during booking?
A. Yes. Part of the booking process.

Q. Right. Am I hearing you right that JICS is kind of limited to the jail's record of that type of information that is on that form?

A. We interview the inmate, so it is a system that is well established across the United States. Probably the most recognized classification system. We have had it for sometime. And maybe this will help. From the point of when the inmate walks in the door from being arrested there is a series of questions that will help us figure out how to deal with this inmate. Once they say I'm not going to bond out then part of that next process before they go to housing is that JICS interview/screening. Which is mostly an interview of the inmate.

Q. Because I think I may have had a misperception of the nature of this computer system; JICS. In looking over the discovery that you have provided various staff members have documented reviewing JICS.

When they say "reviewing JICS," they are reviewing that questionnaire form?

MR. DICKINSON: Object. Calls for speculation. It's vague. But if you can answer.

THE WITNESS: Yeah, I'm not sure -- if

they say "reviewing JICS," then whether it be a printed form or on the computer, they are probably talking about reviewing that information.

Q. (BY MR. OVERSON) I think I see the disconnect here. JICS is the systematic processing intake and classification at a jail. Is that what you are saying?

A. Not intake. Classification and screening. So an inmate will come in and everything to do with their information, and their arrest charges, everybody is treated the same. Now when they say I'm not going to bond out. I'm going to stay here. That is when the classification system, which is just the initial classification system, comes into play. So, for example, part of JICS is, do you have tuberculosis? Yes, I do. Okay. You are going to go to health services. Those sorts of questions. Which is a fairly short initial screening. That is what JICS is. Now, it may have evolved a little bit more over time.

Q. And during the '07 and '08 period the information was on the computerized system?

A. I believe so. Should have been.

Q. And that was --

A. I believe it was. I can't say for sure. But I believe so. We have changed some of that. Not because the system changed, but some of the privacy laws have changed. So we redesigned the system.

Q. Since 2008?

A. I believe so.

Q. But you're not sure; is that right?

A. Correct.

Q. I'm going to hand you Exhibit A to Farmer's deposition. I'm not asking you if you have seen that particular document before. My questions will be aimed more at the type of document. And if that changes I'll let you know.

A. Okay.

Q. I believe it is page 90 and 91.

A. Yes.

Q. Is that what you are talking about?

A. Yes.

Q. So is this -- are these two pages, this document, and that process, is that JICS in its entirety? Or is there more to JICS?

A. To the best of my knowledge, this is all of the initial classification. It probably

now -- somebody stays in custody and again gets arraigned 36 hours later. Now we know or presume that they are going to stay for months. There will be a secondary classification that moves them from the initial housing into here is where you are going to live as long as you are in Ada County Jail. That system may tie into this one now.

Q. Okay. But you are not sure back then in '08?

A. I'm not sure either way.

Q. And correct me if I'm wrong. Everybody who comes into the jail does this; right?

A. No.

Q. This is only done if they are not going to bail out?

A. Correct.

Q. Okay. But if you know they are going to stay in the jail they do this?

A. Yes.

Q. And then they go into, and correct me if I'm wrong, but they go into preclass housing based, in part, on the information on this form?

A. Yeah. If there is no reason to house them in another place. Like, for example,

tuberculosis, then they would go into the preclass housing.

Q. Or over -- well, for any number of reasons they could be housed in the Health Services Unit.

A. Yeah. Or many other places.

Q. But if there is nothing on the form to indicate otherwise they are going to be preclass And then they are going to go through another screening process over in classification, where somebody from classification sits down with the inmate and interviews them.

A. Correct.

Q. Okay. Is this considered part of the booking process? This screening?

A. I suppose you would consider it that.

Q. If you know an inmate, and I'm talking about back in '08, if an inmate comes into the jail, and you know they are only going to be there for 36 hours, you don't put them through this process? Or you do?

A. We do.

Q. You do. Okay. And part of the reason, if I understand it correct, is that peak times for suicide and suicidality for inmates coming

into the jail are really the initial 48 to 36 hours?

MR. DICKINSON: Object. Compound. Assumes facts not in evidence. Calls for speculation. But to the extent you can answer.

THE WITNESS: Based solely on my experience the majority of suicides in the jail have been -- have not been initial.

Q. (BY MR. OVERSON) During the initial period?

A. Right. It is very anecdotal.

Q. And that is just based on your own experience?

A. Yes.

Q. How many suicides are we talking about that you are basing that opinion on?

MR. DICKINSON: Object to characterization. But to the extent you can answer.

THE WITNESS: I would have no idea guessing the number over my career. But one of the numbers I reviewed was 35 active attempts in the last three years.

Q. (BY MR. OVERSON) And you went back and reviewed those in preparation for the deposition?

A. No.

Q. When did you review those?

A. I didn't. I only saw the statistical report of the numbers. From my own experience, and just thinking back, when you asked that question, and thinking back to the attempts that I remember, it is my impression, and that is all it is, an impression that no, I think most of those have been people who have been longer in custody and are probably more like "I'm going to go to prison. And I don't want to go to prison." We have attempts in the booking area. But I would not say it is a majority.

Q. You looked at the stats. Did you look at those in preparation for your deposition here today?

A. Yes. I was just curious about the question. I knew that our staff prevents a great number of suicides. So I was particularly wondering what that number was. And in the last three years there have been 35 active attempts with only this one being successful.

Q. What other documents did you look at?

A. That was all. Well, other than with the attorneys.

Q. Is there a name -- I'm trying to get an idea of how you guys run things over there in terms of keeping records. This JICS form is maintained at the jail on a computer; isn't it?

A. It is generated on a computer and I believe -- we used to have to print a hard copy, because it was still a hard copy inmate file. I don't know if we still have to do that or not.

Q. I took the deposition of Lisa Farmer, and Deputy Donelson, and Deputy Wroblewski, and they described a process. And the intake form, according to the deputies, was completed with the inmate during the booking process. Or during the initial portion when an inmate comes into the jail. That they do that -- or they were doing that in '08 on the computer. It was entering information at a keyboard on the computer. And then a hard copy was printed out and placed I think in like a mailbox or something like that. Some designated spot in the booking area. And then periodically those forms were taken over to the medical unit. I think it was approximately every two hours. And then Lisa Farmer indicated she would review it for relevant information and then put that on the CorEMR.

What I have just described, does that sound correct to you?

MR. DICKINSON: Let me object first. Compound. And, secondly, I think it mischaracterizes testimony of all of those people. But you can answer.

THE WITNESS: I don't know. I don't know that level of detail.

Q. (BY MR. OVERSON) Who would I talk to -- well, let me back up here. In '08 there was a computer system for maintaining records on the security side of the jail; right?

A. Could you define what you mean by "security side"?

Q. Your security staff would enter information on a computer?

A. Yes.

Q. Was there a name for the computer that they were using in terms of the system?

A. That would be what we refer to as part of the jail management system. Which is more the umbrella system. So it has to do with -- it has the inmate information. The arrest information. The housing information.

Q. So for purposes of this deposition that

is really what I was trying to get at is a name that we can use for that computer system so we understand each other here today. And so if we use Jail Management System --

A. We call it JMS.

Q. JMS?

A. JMS. Jail Management System. One other thing to potentially help is there is an initial arrest form by the officer that the last I knew still had some initial intake questions. And they are asked over and over. There may be some confusion between when you say "intake," which is the transition from the arresting officer to the jail deputy. Which is different than JICS. Which is different than JMS. Which is different than CorEMR.

Q. Okay. You said there is another screening by the arresting officer?

A. Yes.

Q. And is the arresting officer's screening document maintained by the Ada County Jail?

A. Yes.

Q. So for Mr. Munroe there should be a document from the arresting officers?

A. You should have it titled "Booking Sheet."

Q. Okay. We are just looking for "Booking Sheet." Not the arresting officer's --

A. I believe that is still what it is called. But the arresting officer would fill that out.

Q. By hand?

A. Yes.

Q. And one of your deputies would put that in the computer?

A. Yes.

Q. Okay.

MR. DICKINSON: It is noon, Darwin. I don't know what your plan is. Commonly people eat lunch.

MR. OVERSON: Let's go off the record.

(Noon recess.)

Q. (BY MR. OVERSON) I think when we stopped we were talking about computer systems. And I was trying to get from you an understanding of -- I understand the CorEMR. That is the medical side in terms of the computerized

record-keeping.

And then is it right that there is another system called JMS -- and we are talking about back in August, September of '08 -- there is another system called JMS. And that is the security side, if you will, computer. It keeps records for the purposes of your security staff's --

A. Yeah. Close enough. CorEMR is a brand name. Very specific product. JMS is a very global term. So in JMS it does lots of things and interfaces with different systems. But it has to do with the person, and the charges, and the courts, and everything that person does as far as movement, cell assignment, and all of that.

Q. Commissary?

A. Nope. Commissary would be different.

Q. Okay. So we've got the commissary. We've got JMS. Then we've got --

A. Let me see if I can walk through them. So coming in you would have the initial booking information. Which would be part of JMS. Then you would have the initial classification, which is part of JICS.

Q. And is that JICS incorporated within the JMS?
A. I believe it is now. It didn't used to be. And I don't know which side of '08 that would have been.
Q. All right. So I'm going to -- okay. Go ahead.
A. Then the classification would have -- let's see, it may be the same system now that feeds from the initial classification into the main classification system. Again, we would call that part of it JMS. JICS within JMS. Then there would be a commissary account. There would be the CorEMR. Now, there is a visitation database. Because we do video visiting.
Q. And then telephone calls. That is probably another one?
A. Yeah.
Q. And video security in the jail is another one?
A. Yeah.
Q. Okay. I think that helps me. Is JMS and CorEMR -- is there any connection between those in terms of synchronizing data?
A. Interfaces?

Q. If you know.
A. I don't know.
Q. Do you know who I would ask that question of that would know?
A. Kate would know. Or probably any of the medical staff. They would know whether or not it pulled data from JMS into their CorEMR. Or whether they would have to manually retype the names.
Q. Okay.
A. I don't know who you have talked to already. But Kate would know.
Q. Okay.
A. Aaron would know.
Q. Oh, Aaron would, as well?
A. Yeah, if you are talking to Aaron then he would know. He can explain all of that probably better than anybody.
Q. He has been there a long time; right?
A. Yes.
Q. You first learned of Bradley Munroe the evening that he committed suicide in your jail; is that right?
A. Correct.
Q. How did you learn about that?

A. Typically, we get what we call command pages. So when something of that magnitude goes out, then we all get pages over our Blackberries or devices. There is a possibility it was a phone call. But most typically it would be a command page.
Q. And I think it is your -- I don't know if it is policy or just your personal policy. But when something like that happens you actually go out to the next of kin's home and tell them --
A. Personal policy; yes.
Q. And that is what you did in the case of Mr. Munroe?
A. Yes.
Q. You went out to Melba. It was rather late, I believe. Right around 11:00?
A. Yes.
Q. Do you recall who was with you?
A. Tammy Parker. Who is one of our victim-witness coordinators.
Q. Anybody else?
A. No.
Q. Can you tell me what you remember of that night in terms of when you knock on the door? You ring the doorbell. Who answered the

door? Can you walk us through what happened?
A. I don't remember who answered the door. I believe his mother was home. But then there was somebody else who we waited to come to the house. And, of course, on any death notification you wouldn't tell somebody and just turn around and leave. So we waited for family members to come for support.
Q. Like a daughter, maybe?
A. I don't remember who it was.
Q. Okay.
A. I want to say it was a brother, or a sister, or something that was there initially.
Q. Then what happened? When Ms. Munroe saw you do you remember what she said to you?
A. No.
Q. So they invite you in the home?
A. Yes.
Q. So you come inside. You wait for this other family member.
A. I don't believe so. I think after we told her what had happened, and why we were there, is when we waited for the family member to arrive so the support would be there.
Q. Gotcha. So you tell her. And then

wait for family. And you are inside at that point?
A. Yes.
Q. Do you remember anything that she said that night?
A. You know, it is common for any family member, and I believe she did, too, you know, express the grief of -- in typical sort of terms it seems like we had some conversation about -- my words. Not hers. His instability. I don't remember any more specifics. My purpose in going out is mostly a personal -- you know, this person was in our custody when this happened. And rather than to get a call on the telephone or something of that nature, or even a visit from the coroner, to be able to go out and at least tell them the very initial information that we know as a fact at that time. It is not to have a conversation, I guess is my point.
Q. Right. And the inmate was in your custody. And it is fair to say you are responsible for the inmate in terms of their safety. Is that fair to say?
A. In general terms; yes.
Q. And is it a matter for you -- because

you can send another deputy. You have a large staff. But you go in person. Is that partly because -- it is almost like a recognition. Look, this person was in our jail, and this bad thing happened, and I'm going to come out and tell you face-to-face myself. Does that play into it?
A. I would probably term it more that this person was in our custody and I want to be there to express my condolences personally rather than send an emissary.
Q. Fair enough. Do you remember her asking why Bradley was in a cell by himself with a sheet?
A. I remember her making statements about things similar to that that had happened that, of course, I didn't know the facts of. One of the things I stress is that not all of the facts are known at the time this happens. Because it happens in other circumstances, too. Maybe a patrol deputy is involved in something. If a patrol deputy crashed into a car, and killed somebody, I would do the very same thing with that driver's family. So the facts are not established at that point. So she was making

statements. And I vaguely recall those sorts of things. But I had no independent knowledge of them at that point. Again, I was listening. It was not a conversation.
Q. You said she was making statements. But she was also asking questions?
A. Yes.
Q. And you really couldn't answer a lot of those questions because it was simply too early in the process?
A. Correct.
Q. So you leave there. What steps did you take -- and I mean personally -- to find out what happened to Mr. Munroe?
A. I don't know exactly what you mean by "personally." Whenever something like this happens we initiate two investigations. One, a criminal investigation to determine whether or not there was any criminal act associated. We have had acts prior where it was to some degree a suicide. And another degree as an assisted suicide. And we charge that person criminally with the assisted part of that suicide. So one part of it is criminal investigation. And the other part is the administrative investigation.

So both of those, by normal course of business, are initiated. I don't have to do that personally, because it is normal course of business. But that is what I rely upon.
Q. So you didn't come back to the jail or the sheriff's office and assign somebody to find out what happened. As a matter of protocol these things took place?
A. Correct.
Q. Do you know who conducted the criminal investigation?
A. I believe it was Matt Buie.
Q. Did you talk to him about it, do you know?
A. I don't recall. A lot of times we'll get a briefing, a command level briefing, from somebody at the end of those investigations. But that may be the detective sergeant rather than the detective. I don't recall.
Q. Do you know who did the administrative --
MR. DICKINSON: I'm going to object to the extent we are going down the road of protected work product.
MR. OVERSON: And I'm just asking who

did it.
MR. DICKINSON: Let me think it through for a second, Darwin.
MR. OVERSON: Okay.
(A discussion was held off the record.)
MR. DICKINSON: We are not comfortable in going down the road of the --
MR. OVERSON: Let me just make it clear. I'm not going down the road. I'm just asking who did it. And that is the extent of my questioning.
MR. DICKINSON: I understand that. But it seems like it is a start down the road. And we don't want to --
MR. OVERSON: I'm telling you it is not a start. It is a start and an end.
MR. DICKINSON: Okay. And I don't disagree with what you are saying. From my perspective I might not have been as clear when I explained that to you. And I appreciate, and I know if you say that, Darwin, you won't ask further questions. On the other hand, my concern is that investigations of this nature are protected and are privileged. And to the extent we start letting bits of it out, then that could

allow for somebody to drill deeper. Because we didn't assert a protection. So that is my concern. That's all. And that is what it is. I'm not saying that I don't respect that you'll stop questioning, because I think you will. And I don't think you are going there to pry it open. But I don't want to be in a position where it looks like we did. If it is the kind of thing we want to take to a judge later, and the judge says yeah, you can tell him at least who did it, we can give you a name in writing.
Is that okay?
MR. OVERSON: Yes. So you are directing him not to answer that question?
MR. DICKINSON: Yeah, I am going to direct him not to answer that.
MR. OVERSON: Let me ask one other question. Because I think I need to know this. And if you want to direct him not to answer it, you do that.
MR. DICKINSON: With the same stipulation?
MR. OVERSON: Right.
Q. (BY MR. OVERSON) You didn't conduct the investigation on the administrative side?

MR. DICKINSON: Let me think about that one, too. I'm sorry.
MR. OVERSON: And the question, Jim, just so you are clear, is him personally.
(A discussion was held off the record.)
MR. OVERSON: The question was whethe or not you conducted the administrative investigation. And it was personal.
MR. DICKINSON: Whether you did it. And you can answer that.
THE WITNESS: No.
Q. (BY MR. OVERSON) Did you review the criminal investigative report?
A. I don't believe so.
MR. OVERSON: And, Jim, here we go again. I'm not prying into the content of it. I just want to know if he reviewed the administrative investigation report.
MR. DICKINSON: One second.
(A discussion was held off the record.)
MR. DICKINSON: Darwin, based on our concern earlier in allowing little --
MR. OVERSON: Nudges?
MR. DICKINSON: -- detours into that particular review could later allow for it to be

opened up. We'll continue with the same objection to that question on his review. And we'll instruct him not to answer. And, again, to the extent a court would allow that, if the court allows that, then we can do something in writing.
MR. OVERSON: All right.
Q. (BY MR. OVERSON) So you don't believ you reviewed the Buie report. Did you receive an oral report or any information from that investigation? "That" being the criminal investigation.
A. I believe so.
Q. You did. And do you know who that was from?
A. I don't recall. Many times it would be the detective sergeant or somebody.
Q. Do you know what the conclusions were of that investigation?
A. Yes. That there was no criminal acts.
Q. Was the investigation limited? And I'm just asking you for your understanding. Was Detective Buie's investigation limited to simply determining whether or not there was foul play involved?
A. As opposed to --

Q. If there was criminal conduct involved.
MR. DICKINSON: I think the question is unclear, at least to me right now. So I'm going to object that it is vague and compound. But you can answer it, if you understand.
THE WITNESS: His investigation was to determine whether or not a crime was committed by somebody other than Mr. Munroe. And not that he did, but --
MR. OVERSON: I understand.
Q. (BY MR. OVERSON) Did you review any other documents relating to Mr. Munroe?
MR. DICKINSON: I'm going to object. It's vague. But you can answer.
THE WITNESS: I believe so.
Q. (BY MR. OVERSON) What did you review?
MR. DICKINSON: Darwin --
MR. OVERSON: Let me rephrase the question.
Q. (BY MR. OVERSON) Outside of your communications with your attorney have you reviewed any documents relating to Mr. Munroe?
MR. DICKINSON: Same objection.
MR. OVERSON: What is the objection again?

MR. DICKINSON: That question is vague. But it also --
MR. OVERSON: Oh, you are worried about --
MR. DICKINSON: -- the privileged documents that the sheriff may or may not have looked at.
MR. OVERSON: Under what privilege are you asserting?
MR. DICKINSON: Work product. And there was an earlier determination by the court about some items.
MR. OVERSON: I think that was the administrative investigation.
MR. DICKINSON: No. There were two other items that the court litigated and found t to be privileged.
MR. OVERSON: You are going to have to be a little more specific than that, Jim.
MR. DICKINSON: I'll try to remember the names. One was the psychological autopsy. And I don't know what the other one is called. We briefed it and argued it before Judge Wilper earlier in the litigation.
MR. OVERSON: Right. I remember the

psych autopsy.
MR. DICKINSON: And there is another one. A mortality review? Does that sound familiar?
MR. OVERSON: Okay. Just to make sure we are clear. The areas that you are asserting privilege over in terms of documents that he may have reviewed are documents that are protected by the work product privilege, documents that may have been part of the psychological autopsy, documents that may have been part of the mortality review, and documents -- and I don't know if this is part of the same -- but documents that he may have reviewed as the administrative investigation.
MR. DICKINSON: I think.
MR. OVERSON: Did I cover it?
MR. DICKINSON: And attorney-client. But I think you already carved that out. Work product. And attorney-client would be -- well, you asked about documents, specifically; didn't you? So attorney-client. But I think you carved that earlier in your question, Darwin.
MR. OVERSON: Yes.
Q. (BY MR. OVERSON) So we are going to

exclude from this questioning documents that were produced to you or provided to you by your attorney as part of the representation with your legal counsel. Okay? Documents that would fall within the work product privilege. That is, documents that haven't been produced to plaintiff's counsel that are documents produced by your legal counsel. And that would include Mr. Mallet. The documents that you may or may not have reviewed that are related to the psychological autopsy. Documents that you may or may not have reviewed related to the mortality review. And documents that you may or may not have reviewed relating to the administrative investigation to Mr. Munroe's suicide. All of those are claiming as privileged. So we are going to exclude all of that material. Okay? What other materials have you reviewed that relate to Mr. Munroe?
A. Excuse me.
(Conferring with counsel.)
MR. DICKINSON: Can we have a second?
MR. OVERSON: Yes.
(Recess.)
MR. OVERSON: You got another

objection?
MR. DICKINSON: Yes.
MR. OVERSON: You've got a sixth area of privilege you are going to claim?
MR. DICKINSON: No.
MR. OVERSON: Okay. What is your objection?
MR. DICKINSON: There isn't one.
MR. OVERSON: Really? Okay. Do you remember the question? Let's go ahead and have the court reporter read it back.
(Record read back.)
THE WITNESS: Tammy Parker, the victim-witness coordinator's -- I don't know what their term for it is. I would call it an activity log. Was provided to me the other day. I didn't ask for it, but.
Q. (BY MR. OVERSON) And what is that?
A. Apparently -- I didn't even know it existed. It is like a log of what they do. A diary sort of thing. A work diary.
Q. Made contact with family --
A. Exactly.
Q. And you reviewed that. Is it a page? Two pages? A volume?

A. I think it was a page or something. Just brief notes.
Q. Do you know if she made contact with the Hoaglands afterwards based on your review of that activity log?
A. Yes. And I recall that at the time, because I made the initial contact. I remember checking with Tammy the next day to ask how they were doing. And she said that she had been -- I don't recall the specifics. But that she had been in contact with Ms. Hoagland.
Q. So that was just days after you had been out there with Tammy?
A. I believe the next day. I'm not sure on that, but I think it was.
Q. Did the log indicate any other further contact with the Hoaglands?
A. There might have been one more. I'm not sure.
Q. Is that log in your possession?
A. No.
Q. Who has that?
A. I presume Tammy would. I'm not sure -- like I say, I didn't even know that they kept those. I know they keep like case notes.

Because, of course, they deal with many different victims.
Q. Is that part of your office? Is she employed with your office?
A. Yes.
Q. Any other materials that you reviewed?
A. No, sir.
Q. None?
A. No.
Q. Have you formulated an expert opinion in this case?
A. As to?
Q. Whether any of the Ada County defendants were deliberately indifferent to Mr. Munroe's security and medical needs at the jail?
A. Yes.
Q. You have?
A. Yes.
Q. And what are those opinions?
A. That they were not.
Q. None of the defendants? That is your expert opinion?
A. Yes.
Q. What is the basis for your expert

opinion that none of them were deliberately indifferent?
A. The facts?
Q. The facts.
A. I started out as a jail deputy 27 years ago. And probably the most removed from operations. But I have spent a career dealing with people who are emotionally unstable inside the jail and out of the jail. And I believe that we can do many things to prevent suicide. And w do as evidenced by the fact that there was 35 attempts and only one successful in the last three years. But if somebody is determined to commit suicide it is very, very, very difficult for us to do anything to reasonably protect them from themselves at the end of the day. That if I'm so determined to do that, that I will. And while there is always the ability to speculate after the fact, I think given the circumstances, and the facts, while never perfect in any situation, that they did a very good job.
Q. So I hear you saying -- I'm sorry. Twenty-three years in the --
A. Twenty-seven.
Q. So based on your expertise; right?

A. Yes.
Q. And that is based on your experience in law enforcement, operating jails, working in jails, dealing with people in jails that are mentally ill, suicidal, procedures to protect people, all of that; right?
A. Yes.
Q. So based on your expertise. And then you said based on the facts. What did you review --
MR. DICKINSON: And we'll enter an objection at this point. I need to talk to my client.
MR. OVERSON: Do you need the conference room?
MR. DICKINSON: Yes.
(Recess.)
MR. OVERSON: We are back on the record. And we had a question pending when counsel asked for a break in order to consult with his client and other counsel.
MR. DICKINSON: Right. So as we continued with the deposition it was my assumption that you weren't inquiring into areas that were protected. That are privileged.

MR. OVERSON: Right.
MR. DICKINSON: And I guess to set this up. Sheriff Raney -- and I don't know how much of his background you have asked about. Because I don't recall writing it down. But he has been in law enforcement for a long, long time.
MR. OVERSON: Twenty-seven years.
MR. DICKINSON: That he has worked in the jail. And he has been in various positions all over the sheriff's office. And that gives him a level of expertise in law enforcement and aspects of running a jail.
On the other hand, we have not hired him as a 26(B)(4) expert and he hasn't put together a report. And we don't intend to use him in that capacity. So while we have allowed that he is an expert so everybody knows that he has a number of years, and a lot of experience in law enforcement, and, specifically, the Ada County Sheriff's Office, the questions you are asking now could potentially, and I'm not accusing you of heading down that road, but could potentially call for Sheriff Raney to talk about information he learned in those privileged documents. And so that is the concern. And to

the extent that your questioning heads in that direction we have an objection. We think it is headed towards privileged information. And trying to elicit privileged information. And to that extent we will object and instruct him not to answer. But to the extent that you can craft your questions otherwise and stay away from those areas we can --
MR. OVERSON: Here is the concern, Jim. If he is going to take the stand at trial and offer an expert opinion I'm entitled to know what that expert opinion is based on in terms of, as Mr. Raney put it, the facts. And if that material is privileged, and you are going to stand on those privileges, then he doesn't get to do that. You can't claim a privilege and offer the expert opinion if it is based on the privileged materials. You don't get your cake and eat it, too.
MR. DICKINSON: I understand what you are saying. I think there is a differentiation between 26(B)(4) expert witnesses and witnesses who just happen to come to trial with life experiences.
MR. OVERSON: I'm not questioning -- I

haven't challenged him in terms of his expertise in the areas that you have discussed. Let's say for the sake of argument that that is a given. My issue is that he is going to apply that expertise to a set of facts that you have claimed privilege over. And I don't get to see those. So how do I challenge in trial Mr. Raney's expert opinion when you won't let me know what that opinion is based upon.
MR. DICKINSON: I understand.
MR. OVERSON: So there we are. So you are instructing him not to reveal the basis for his expert opinion. And I respect that. And if that is your instruction to him we'll move on. But I got to tell you, he is not going to testify and offer an expert opinion at trial. Do you want the cake? Or do you want to eat it?
MR. DICKINSON: I like both. We all do.
MR. OVERSON: Let the record reflect that we are smiling at each other.
MR. DICKINSON: That's fair, Darwin. I think that is where we are. And I think you set it out fairly accurately.
MR. OVERSON: Great.

Q. (BY MR. OVERSON) Now that we have gone through all of this I can't quite recall, so forgive me if I asked you this question. And it is more -- and now I'm asking for you to refresh my memory. I think you testified, and correct me if I'm wrong here, that Ms. Munroe did have a number of questions that you couldn't answer when you went to her home regarding why Mr. Munroe was in his cell by himself with a sheet.

Is that true?

A. Ms. Munroe?

Q. Ms. Hoagland. I'm sorry.

A. There were some questions that I could not answer and some questions that I did not answer.

Q. Okay. So there were some questions that you chose consciously not to answer that she had?

A. Yeah. Until the facts are verified I think it would be irresponsible. I had some basic understanding. But, again, it wasn't the point to debate cause or try to explain the facts of what happened. It was a death notification and a consolation.

Q. And at the time it was early and you

didn't -- and you probably didn't want to speculate to a mother --

A. Exactly.

Q. -- and then find out you were wrong?

A. Exactly.

Q. Did you ever go back either yourself or ask somebody else to do it on your behalf to contact Ms. Hoagland and explain to her why her son was in a cell by himself with a sheet after she had called and said he was suicidal?

MR. DICKINSON: Object. The question is compound. Assumes facts not in evidence. Calls for speculation. May mischaracterize facts.

MR. OVERSON: And it's inconvenient. Any other objections?

MR. DICKINSON: No.

Q. (BY MR. OVERSON) You can answer.

A. Typically speaking, and I believe in this case, but without complete certainty, that I will offer a follow-up contact whereupon I will explain a level of facts. I'm not going to offer everything but a level of facts to the family that at least helps them understand why what happened. And I am not clear on this. But my

very, very vague recollection is that Tammy followed up with Ms. Hoagland the second day. And I think just the open communication quickly kind of broke down and there was some -- it just wasn't going well. And that wouldn't have served the purpose. And I don't believe that ever happened. But I guess back to your question. The typical approach after leaving her house that night would have been to -- for me. This is my personal approach. Would have been for me to offer a follow-up meeting whereby I could explain to them what happened. People misperceive and misunderstood jails. And it mystifies them. They think there is lots of big, bad people in there doing terrible things and it's not the case. So I try to put some of the facts in front of them. I have even taken people -- we had a suicide in 2003, 2004 --

Q. Mr. McClure?

A. No. It might have been earlier than that. But I took the mother down to the jail to see where her son passed away. To put their mind at ease. It was just about doing the right thing. So that is a roundabout answer to your question. But I probably left there that night

with the willingness to have a follow-up conversation about the facts with Ms. Hoagland. That never happened. And I believe that never happened because Ms. Hoagland became non-communicative with Tammy Parker. But that is a vague recollection.

Q. So your understanding is that Ms. Hoagland became uncooperative?

A. I didn't say uncooperative. I said non-communicative.

Q. And she refused to talk to Tammy, is your understanding?

A. I believe that communication lines just were not going well. You know, parents react differently to their children's death.

Q. So your understanding is that that meeting didn't take place because of Mrs. Hoagland?

A. No. That is not what I said. I think it didn't happen because communication wasn't flowing well. And if communication is not flowing well then there is probably not a lot of purpose to coming in face-to-face and potentially making it worse.

Q. So you never talked to the Hoaglands

again?
A. I don't believe so.
Q. And the only member of your staff that you are aware of that spoke to them after that night would be Tammy?
A. I don't know. Like with Detective Buie's investigation I don't know if he did or not. If I did know I don't recall. I don't know of anybody else.
Q. Okay. So excluding those two. And you don't know about Buie?
A. Correct.
Q. You had said that you had taken the parents of an inmate through the jail where the inmate had committed suicide. And you thought it was in 2003, 2004. You were undersheriff at that time?
A. I was undersheriff in part of -- it would have been in all of 2003 and 2004; yes. I don't recall the year that that happened. It was around then, give or take.
Q. And you escorted them into the jail and showed them where the suicide took place?
A. Yeah. I don't know the relevance for this. But the mother was trying to bring closure

to her son's death. Understood the reasons why. It was simply an emotional closure issue of seeing the place where he passed away. And I wanted to -- again, the same sort of thing -- demystify that somebody might have put him up to it or maybe he was so scared that he committed suicide. So I did take her down to the cell where he committed suicide.
Q. And how did that suicide take place?
A. It was a hanging.
Q. From a bunk bed?
A. No. From a grate. A ventilation grate.
Q. Lisa Farmer gave her deposition in this case. And on September 29, 2008, which is the day that Mr. Munroe took his life, she testified that at approximately 11:00 that she reviewed the medical screening form. The JICS. And she extracted the information that she thought was important and transferred that onto the CorEMR. Then she added to the CorEMR record the initials OOC. And she further testified that by OOC she was reflecting that she intended that acronym as "out of custody."
Do you know of any reason that the

CorEMR system would indicate that an inmate is out of custody when they are in the jail?
A. To be clear. You are not specifically speaking of this entry, but an entry in general?
Q. Let's start in general.
A. Yes. So we will -- even though they are in our custody they may not be in our jail. So, for example, a judge may grant a furlough. They are still in our custody, but they are released on a furlough. It is a cell assignment out of custody. I have never referred to it as an OOC before. But that would be a case. An inmate may be our inmate, but have to make a court appearance in Canyon County and be there for a day. And I'm not sure of the specific examples. But they will still be technically in our custody, but be somewhere else. The 18 to 11's, if they go to psychiatric evaluation somewhere else, we call them out of custody. We still have responsibility for them, but we are housing them somewhere else.
Q. My question is, do you have any idea why she would think then -- let's be specific to this case.
Do you have any idea why she would

believe that Mr. Munroe was not in the jail --
MR. DICKINSON: Object. Speculative.
Q. (BY MR. OVERSON) -- on September 29, 2008, approximately 11:00 in the morning?
MR. DICKINSON: Same objection.
THE WITNESS: None.
Q. (BY MR. OVERSON) She testified that the CorEMR computer was telling her that he was out of custody. And that is why she put that in her chart note. Do you know if the CorEMR system is -- let me start that question over.
In booking the deputies are on the JMS system in terms of entering information about the inmate; right?
A. Correct.
Q. Do you know if there is information that is transferred from the JMS to the CorEMR telling medical staff whether or not an inmate is in or out of custody?
MR. DICKINSON: Object. Compound. But you can answer.
THE WITNESS: I don't know at that time whether it did or not.
Q. (BY MR. OVERSON) It does now, though?
A. I believe so.

Q. Is that based on -- and just if you know. Is that based on the information that the booking deputy is entering?

A. The JMS system, which if it did interface, would be where it pulled the data from. Any number of people could enter information. As I said, somebody coming in they may go to the preclassification housing area. And then get classified somewhere else. And then maybe get moved around. And a number of people can change those assignments as inmates move through the jail.

Q. On the JMS system, when an inmate is -- how does the JMS system know or record whether an inmate is in custody or out of custody?

A. It is a manual entry by a deputy.

Q. When they come into the jail is there something that a deputy has to do affirmatively to create a record on the JMS that the inmate is in custody?

A. Yes.

Q. And that is what?

A. It is called a booking screen. So if you were to come into the jail we would ask, "Have you ever been in the jail before?" If you

would say "yes" we would pull up your old Darwin screen and fill out the new arrest information. If you had never been in there before, we would have to create from start the new Darwin screen and the arrest information.

Q. And is it correct -- and I'm kind of drawing an inference here, I guess, and I just want to make sure it is correct. That when that happens the record reflect now that the inmate is inside the jail or in custody. And then when they are released a deputy will go back and create a record on that same -- what did you call it? A booking screen?

A. Um-hmm.

Q. And it will indicate that the inmate is now out of custody. Is that right?

A. You may be confused in the terminology. Because "out of custody" in our typical language -- and it is confusing. Because you may say no, somebody is out of custody. We don't have anything to do with them. They are not in custody. As a cell assignment "out of custody" means that -- if I have an active arrest screen, charge screen, cell assignment out of custody, that means they are still in our responsibility,

but we are not housing them. So when somebody comes into booking. Say you come in on a DUI. You never get a cell assignment if you turn right back around and bond right out. If you are going to stay and go into preclass cells, then we would put in the cell assignment.

Q. And then when you are released --

A. You would simply be released. It would not be an out of custody cell assignment.

Q. Oh, okay. But the booking screen would then reflect a release?

A. A release; yes.

Q. And that is where my terminology was maybe inaccurate by saying "out of custody"; right?

A. Yeah. I think we are saying the same thing. But to be sure. If we are talking about when the booking screen says "out of custody," what does that mean? That means to us that you still -- we are charged with keeping you, but you are not currently staying with us. As compared to just saying, "Oh, are they in custody or not? Nope, out of custody right now."

Q. Is it your understanding that the -- well, let me cover this real quick. Is there

training for the medical people in the medical unit over at the jail so that they understand the operations of the jail in general? The security operations?

A. There certainly is an orientation. I don't know how formalized that is.

Q. A generalized orientation to the jail's operation?

A. Yeah, we would walk everybody around the jail and explain the operation. And typically pair them up with a mentor. I don't know in the medical unit how formal that is.

Q. Speaking of mentors. When a new deputy comes on it is my understanding they are assigned a mentor for a period of, I think, five weeks?

A. Typically. A mentor or a coach. Yes.

Q. What is the mentor's duty in terms of oversight of new deputies' work?

A. We are talking about sworn deputy staff?

Q. Yes.

A. So the new deputy will attend the Detention Academy. Our own what we call Leader Academy. Which is more classroom-based. But not exclusively classroom. Learning about the Ada

County Jail. So Detention Academy, generic detention anywhere. Leader Academy, here is everything you need to know about Ada County Jail. That is much classroom. A little bit of experience. And then they will go to the mentor, which is the final, more OJT training. So there is no formal supervision in the sense of there is nothing to tie with wages, or benefits, or doing employee evaluations. But they do training evaluations. And if somebody was not learning at an appropriate pace the mentor would document that and bring it to the attention of the supervisor. There might be prescribed training. Or the determination that they discontinue the training program and be let go.

Q. I think that answers my question. So there is no formal requirement during that on-the-job training portion, but the supervisor performs specific oversight of documentation that is being created by the deputy in training?

A. By "supervisor" do you mean sergeant shift supervisor? Or coach mentor?

Q. The mentor.

A. They do -- and I don't know what it is. I am sure there is documentation associated with

progression of the training. I don't know what that is anymore.

Q. Let's use this for instance. In this case Deputy Wroblewski testified he was still kind of in that last week of mentorship. And he identified his mentor supervisor. And he was the one who did the medical screening of Bradley Munroe.

Is there any formal requirement of the jail that the mentor review that document before --

A. I don't know.

Q. You don't know?

A. No.

Q. What is your understanding of the training requirements at the Ada County Jail -- let me back up here.

You had talked about a portion of the training that was kind of generic for the deputies. They could finish that training and move onto pretty much any jail in Idaho.

Is that right?

A. Yes. The Detention Academy is a state academy. So all detention deputies across Idaho go to the same academy. And jails differ

greatly.

Q. Is that Idaho Standards and Training?

A. Peace Officers Standards and Training. POST Academy. But it is a Detention Academy within the POST Academy. There is a Patrol Academy. Detention.

Q. Then there is some training that goes on, a little bit of in-class, I think you said, that is specific to the Ada County Jail?

A. Yes.

Q. Because not all jails are operated the same?

A. Right.

Q. And it is important that staff members are familiar with the operation of their specific jail?

A. Correct.

Q. Is that training that the medical unit staff has to go through, as well?

A. No. Only sworn staff.

Q. Medical unit staff is not sworn?

A. Not in the lay terminology of it. People who go through that are badge and gun people. So professional staff -- our organizational terminology is professional staff.

So that would be clerical staff. Generally the people who do not have direct contacts with the security function of inmates. So clerical staff, food service staff, central control operation staff, program staff, medical staff, do not go through that.

Q. So Mr. Johnson wouldn't go through that portion of the training?

A. Correct.

Q. I did see a document in the discovery where Mr. Johnson had signed under oath to something related to the beginning of his employment. Do you know what I'm talking about?

A. Yes. The confusion of the sworn. We actually swear in every employee of the sheriff's office. Because I believe that the oath of office applies to everybody who works there. However, the occupational terminology is to talk about sworn and non-sworn. Sworn being badge and gun people. Non-sworn being everybody else. We call non-sworn professional staff.

Q. But if you work in the jail you swear to work there --

A. Everybody who works in the sheriff's office takes the oath of office.

Q. Gotcha. That in-class training that the deputies, sworn officers take, does that include suicide assessment and risk reduction training?
A. I believe so.
Q. Do you know what portion of that is aimed at suicide assessment and risk reduction?
A. I do not.
Q. Who would know that information?
A. Kelly Tuttle is a jail deputy and is the coordinator for our leader courses. The terminology is LDR. It is the acronym for Learn Do Review. Leader Academy is probably the easiest term.
Q. I'm sorry. Learn --
Q. Learn Do Review. It is adult learning.
Q. What is in place to make sure -- let me back up here. We talked about this. So the sworn deputies are familiar with the specific operations of the Ada County Jail. And that would, I imagine, include being familiar with the policies?
A. Yes.
Q. And the medical staff don't have that training. Is there something equivalent for them

so that they are familiar with Ada County Jail's policies and operations when they start working?
A. All of the other functions have their own training programs. I just named a number of those in the jail. So each of those have their own training or familiarization or orientation programs. Those are not as formalized as the sworn deputy programs. Except probably dispatch is close.
Q. Okay.
A. So as to all of the variations across the organization I couldn't tell you.
Q. So let's look at Mr. Johnson. He came from California. He was hired with the Ada County Jail. And I think he completed his POST training. Or some type of academy training.
A. I wouldn't think so. But I don't know.
Q. So is it your understanding that he came on to the Ada County Jail. There was some type of less formal training in relation to what the deputies do for him before he starts out on the floor doing his job?
A. I'm reasonably confident that it is on-the-job training.
Q. So he would have a mentor?

A. That is terminology -- we wouldn't call that a mentor.
Q. In the security setting?
A. In a generic sense, yes.
Q. On the medical unit side what would you call that person that --
A. I don't know the term they use.
Q. But there would be somebody like a mentor to follow him around?
A. I would say no. That wouldn't be my expectation. Because the job of a jail deputy is far more diverse. So many different functions. When we hire professionally trained staff who already have -- are degreed and educated in their specific area, then a deputy has -- learns a level about food service. A sworn deputy will learn a level about food service. There is really no value in teaching a food service worker how to transport inmates to the courthouse.
Q. So when Mr. Johnson is hired at the Ada County Jail everybody's understanding is he has got a master's degree in social work and he has been practicing social work for, you know, a good period of time. An investigation takes place and everybody is comfortable with his credentials.

So there is an assumption built in that he knows what he is doing?
A. In the area of mental health; yes.
Q. Then he comes into the jail and he performs the services of a social worker for inmates in the Ada County Jail; right?
A. Yes.
Q. But you are not sure what the training is for that job category as social worker in the medical unit in terms of orienting him to the specific policies and operations of Ada County Jail?
A. Correct.
Q. Who would we talk to to find out what --
A. Kate Pape.
Q. Do you have an understanding about the training requirements for your deputies in terms of how frequently they have to undergo training for suicide assessment and risk prevention?
A. I know there is a frequency we try to attain. But I don't recall what it is.
Q. Annually?
A. I would have made a guess that it was every two years.

Q. But you would agree that whatever that time frame is, if the Idaho standards and training for police officers says annually, you would agree with that?

A. I would agree if that is what the standards said.

Q. I believe I have a copy.

(Exhibit R marked.)

Q. (BY MR. OVERSON) The Idaho Peace Officer Standards and Training. What is that entity, if you know?

A. The Peace Officers Standards and Training I sit on the counsel of. It is the appointment by the governor to be the oversight council to establish professional standards for law enforcement officers, detention deputies, correctional officers, and, to some degree, juvenile probation officers, currently misdemeanor probation officers, across the State of Idaho, and provide fundamental training for peace officers, detention officers, and correctional officers.

Q. Are you familiar with the Jail Training Officer Manual?

A. No.

Q. But you would agree that that would be -- let me ask the question differently. In terms of the standards in Idaho for the operation of jails, and the standards that jail officers conduct themselves by, you would agree that the Idaho Peace Officer Standards and Training Manual for jail training officers, that would be a different source of information, don't you think?

A. No.

Q. What would be?

A. This is a manual that is put together to train detention officers in any of 44 counties across the State of Idaho. So the Ada County Jail is nearly twice as large as any other jail in the State of Idaho. So it's a lot like fitting a round peg into a square hole.

Q. Generic?

A. Yeah. To the best my of knowledge we do not use this nor subscribe to it. There is probably many, many similarities to what we do. But it is by far not the definitive manual. Nor do I believe that it is directly associated with the Idaho Sheriff's Association Jail Standards.

Q. So if it says annual training required that don't matter to you?

A. No.

(Exhibit S marked.)

Q. (BY MR. OVERSON) You have been handed Exhibit S. And I'll represent to you this is material that you have produced through your attorney to our office as training transcripts with a handful of officers.

A. Okay.

Q. And you recognize the names of those officers?

A. Yes.

Q. Mr. Marshall. If you would take a look at his --

A. It is Mr. McKinley. Marshall is his first name.

Q. I'm sorry. Marshall McKinley. Would you take a look at his transcript?

A. Okay.

Q. Would you agree that he has only -- between the dates of June '07 and April of 2010 he has received two trainings relating to suicide prevention?

A. With the caveat that our training records sometimes generalize the topic it appears to me that he may have received between those

time periods --

Q. Let's identify them, if you would.

A. So starting in June of '07. The leader program would have addressed suicide prevention. October of '07 the Detention Academy would have addressed suicide prevention.

Q. Is that set of five? There is two of them there. Is that the same thing, basically? Part of the same thing?

A. The five is a continuation. The one that is labeled 220 hours is the generic and would have included it.

Q. Okay.

A. I see on February of '08, Jail Suicide Prevention. I don't know what -- on 9-21-09, Health Training for Correctional Officers. I'm not sure what that is. Probably not. I see on December 15 of '09, Suicide Reduction Debrief. That was only 15 minutes. I don't know what that might have been. Potentially on 1-19-2010, HSU Operational Overview, may or may not have included that. As well as 4-1-10, Emergency Medical Intervention. Again, for a quarter of an hour it is hard to say what it is. In order to accumulate in the database program, one of the

problems is that it doesn't allow us to customize the titles of the classes very well.

Q. So from February 20, '08 through 12-15-09, with the possible exception of the Health Training for Correctional Officers, which you weren't sure about on 9-21, there would be no other suicide training within that period for Mr. McKinley?

A. What I can say is that a review of this record by me does not -- if I followed those dates correctly -- I don't particularly see anything that I can tell you was suicide prevention.

Q. And I had my trusted secretary count that up and it is 21 months between those two trainings. One, is that in compliance with the policies at the the Ada County Jail in terms of training for suicide assessment and risk reduction?

A. As stated, I don't recall the period of time. But if I would have guessed, as I said, it would have been two years.

Q. So it is your understanding that that would be within two years. Twenty-one months. So you are just not sure about the time period

that is required under the policy?

A. Correct.

Q. Let's go to Mr. Vineyard. And don't worry about turning back. But Mr. McKinley is a deputy at Ada County Jail in the security staff side; right?

A. Yes. He is now. I don't recall -- if we are going to go through all of these -- many people start in the professional staff ranks and then go to the commissioned staff ranks. And so I don't remember who -- some of them I do. But who started where. But Mr. McKinley is a sworn or commissioned deputy now.

Q. And what about Mr. Vineyard?

A. He is.

Q. As we go through, if you could identify those that are sworn deputies, and those that are medical or some other type.

A. I think all of these are. I don't know who Adam Arnold is. But I see that his job title would indicate he was sworn. Leslie Robertson is not. Jim Johnson we talked about. He is not. Michael Brewer is not. Donelson is. Erica Johnson is. Adam Lowe, I don't know who that is. Jeremy Wroblewski is.

Q. Does Mr. Lowe's training record maybe indicate to you whether he is a deputy or not?

A. It says "Out of Section." By the classes that he has taken I would assume that he was sworn or commissioned staff.

Q. Okay. Let's go back to Mr. Vineyard.

A. Okay.

Q. If you could identify on there the trainings that would qualify as suicide assessment and the risk reduction?

A. And risk reduction?

Q. Yes.

A. Probably all of them.

Q. That are specific to suicide prevention.

A. Okay.

Q. So starting on June 3 of '07. Can you tell me which ones are --

A. Ones that are or potentially would include information -- and this is an assumption on my part -- about suicide prevention --

Q. Let me ask you to do this for me, if you could. Why don't you identify the ones that are clearly that you know suicide prevention. And if you would identify those that are possibly

or you think might have a component. If you can make that distinction as we go through, I would appreciate it.

A. And, again, with the caveat all I'm doing is making assumptions out of the computer database.

Q. Right.

A. 6-3-07, the leader program, would have suicide prevention.

Q. Okay.

A. 10-15-07, the Detention Academy would.

Q. Okay.

A. 12-13-07, Emergency Preparedness may. 2-21-08, Self-Evident Suicide Prevention would. 3-1-08 Emergency Preparedness may. 9-1-09, Well-Being Check Debrief may. 9-25-09, Health Training for Correctional Officers may. 12-15-09, Self-Evident Suicide Reduction Debrief would. 3-1-10, Inmate Behavior Management Debrief may. 4-1-10, Emergency Medical Intervention may.

Q. And you have been marking with a pen the ones that are self-evident, as well as the ones that may?

A. Yes.

Q. Okay. If you would go ahead and work your way through Mr. Rieger, as well. And if you want to, to save time, as you are doing them, maybe you could just indicate as you are going along.

A. 10-15-07, Detention Officer Academy would. 1 2-7-07, Emergency Preparedness may. 2-21-08, Jail Suicide Prevention would. 1-20-09, Emergency Response may. 9-1-09, Well-Being Checks may. 9-25-09, Health Training for Correctional Officers may. 12-15-09, Suicide Reduction Debrief would. 1-7-10, Emergency Preparedness may. 1-7-10, HSU Operational Overview may. 3-1-10, Inmate Behavior Management Debrief may. 4-1-10 Emergency Medical Intervention may.

Q. And for Mr. Manning?

A. 10-21-97, Jail Training Program I'm 90-percent confident would have. That was a different program in those days --

Q. We'll put it in the self-evident category. How is that?

A. Okay. 2-13-98 Mental Illness Training. Almost certain it would. 4-16-98 Medical Training, almost certain -- well, it is hard to

say. But it may. 6-19-98, Legal Update may. 1-25-99, Direct Supervision may. 1-25-99, Officer Survival may. 3-23-99, Inmate Medical/Mental Issues I would say almost certainly would. 3-23-99, Jail and Prisoner Legal Issues probably did. 10-06-99, Correctional Interpersonal Communications may. There is probably one thing I should say. The training records, as they go back to the '90s, I don't remember when we put the new database in, but there were some conversions. So, again, it even further complicated that generic labeling.

Q. Let me ask you this, then. As we go further back in time, back to '97, you are less sure. Is that fair to say?

A. Database conversions over time made the data less reliable.

Q. Okay. And I think you were on 10-6-99.

A. And the reason I bring this is up is I see Level 1 Detention. I don't remember seeing the academy in here.

Q. Right. Unless that is the Jail Training Program.

A. No, that would be different. I don't think the academy has been recorded in here. So

that would be an instance for anybody in those time frames.

Q. So a Level 1 Detention Certificate might?

A. That is just the fact that he received the certificate. I don't believe this record reflects his attendance at the Detention Officer Academy.

Q. Okay.

A. 3-30-2000, Medical/Mental Issues Training almost certainly would. 4-22-2000, Legal Update for Past Session may. 2-23-01, Suicide Prevention, self-evident. 3-21-01, Interpersonal Communication may. I do not know what is represented in the Leads Training - Modules 2 and 3 in 2002.

Q. Okay. So we'll put question marks there.

A. 12-4-02, Inmate Classification probably would. Almost certain it would.

Q. Okay.

A. Again, all of the Leads Training Modules, because they are generic, I don't know what those were.

Q. Okay.

A. I don't know what Values and Gifts in Law Enforcement is. 3-28-03, Medical Training most certainly would. 1-26-08, Jail Leader Training Program would. And I believe for clarification, if you look at those, you'll see the entry below, it is 2004, that Deputy Manning left employment for a while and then returned.

Q. And you know about it because you know Mr. Manning; is that right?

A. Yes.

Q. 2-19-08, Emergency Preparedness. 3-1-08, Emergency Preparedness.

Q. Those are definitely?

A. No. Those are may.

Q. Maybes.

A. Oh, that is the Set of 5. That must be what we were looking at earlier. The Detention Academy CD's. Now it looks clicks. So that "Set of 5," those are CD's that are part of the academy that you get. And you go through an online or CD based interactive training prior to reporting to the academy. So they are part of the academy. Twenty-eight hours for those. But they are not in the academy. So we still have the same thing covered. That in -- well, the

Detention Academy CD Set, probably.
Q. Okay.
A. Booking Procedures, 11-21-08, may have. 9-1-09, Well-Being Check Debrief may have. 9-25-09, Health Training for Correctional Officers may have. And all of these, particularly 12-09-09, Jail Emergency Preparedness, those probably are not. But may have. Any of those.
Q. Okay.
A. 12-15-09, Suicide Reduction Debrief, obviously that did. 1-07-10 Emergency Preparedness may have. 1-7-10, HSU Operational Overview may have. 3-1-10, Inmate Behavior Management Debrief may have. 3-13-10, Jail Emergency Preparedness drill may have. 4-1-10, Emergency Medical Intervention may have.
Q. And I think that is it for Mr. Manning. And I have Kirt Taylor up next.
A. Yes. Again, continuing to give the caveat that there could well be training not expressed in here, nor identified by me.
Q. And, Mr. Raney, I will put it on the record that that is true with all of these answers with regard to Exhibit S.

A. Okay.
Q. So it is clear that that caveat exists throughout this line of questioning.
A. Thank you. 6-14-04, Detention Officer Academy would have. 8-4-04, Jail Training Program I'm pretty sure would have.
Q. So do I put a check mark or a "P"? Because I'm putting "P" for probably.
A. This is the only time I have seen both of those together. It almost certainly would have. That would have been the inhouse -- that is a 90-plus-percent one.
Q. Okay.
A. I don't know what CBRNE Basic Awareness CD is.
Q. Okay.
A. 2-18-05, Inmate Medical/Mental Issues probably did. 2-18-05, Legal Updates for Corrections probably did. 10-1-05, Suicide Prevention Training, of course. 3-14-06, Suicide Intervention Training. 6-7-06, Handling Suicidal Inmates. 8-31-06, Quarterly Suicide SOP. 9-5-06, Quarterly Suicide SOP. 9-25-06, Quarterly Suicide Prevention Briefing Training. 12-18-06, Quarterly Suicide Prevention Briefing

Training. 1-16-07, Jail Block Training probably did. 9-24-07, Emergency Preparedness may have. 2-21-08, Jail Suicide Prevention Workshop. 1-20-09, Emergency Response Training may have. I don't know what the Ada County Jail Emergency Shut-Offs training was. It might be just the water system. 9-1-09, Well-Being Check Debrief may have. 9-9-09, Handling Suicidal Inmates. 9-21-09, Health Training for Correctional Officers may have. 12-15-09, Suicide Reduction Debrief. 12-21-09, Jail Emergency Preparedness Drill may have. 1-19-10, Emergency Preparedness may have. 1-19-10, HSU Operational Overview may have.
Q. So we are on Adam Arnold.
A. 6-30-07, Jail Leader Training Program would have.
Q. 6-03-07?
A. Yes. I'm sorry. My apologies. The Detention Academy of 8-06-07 or 7-24 would have. 12 -13-07, Emergency Preparedness may have. 4-12-08, Jail Suicide Prevention workshop. 1-20-09, Emergency Response Training may have. 9-1-09, Well-Being Checks Debrief may have. 9-2-09, Handling Suicidal Inmates. 9-21-09,

Health Training for Correctional Officers may have. 12-15-09, Suicide Reduction Debrief. 12-21-09, Emergency Preparedness may have. 1-19-10, Emergency Preparedness may have. 1-19-10, HSU Operational Overview may have. 3-13-10, Jail Emergency Preparedness Drill may have.
MR. DICKINSON: Do you think this would be a good time for a break, Sheriff?
THE WITNESS: Please.
(Recess.)
Q. (BY MR. OVERSON) I think we left off with the training transcript of Leslie Robertson; is that correct?
A. Yes. 4-3-03, New Employee Orientation may have. 5-20-03, New Employee Orientation may have. 10-14-03, Dealing with Grief may have. 4-6-04, Jail Security Training may have. Leads Training Module One, I don't know what that was to even guess. 9-26-05, Quick Med Training, I believe, was a software system. But I don't know.
Q. Which one was that? I'm sorry?
A. 9-26-05, Quick Med Training. I believe that was previous software data entry. But I'm

not sure. 5-21-07, Medical Issues in Jails I presume did. 6-12-07, Emergency Preparedness may have. 6-12-07, 32 hours of Jail Emergency Management probably did. 10-29-07, there is CorEMR Users Conference. However, I see that it is incomplete with zero hours. If she attended it, probably part of that had to do with using CorEMR for suicidal inmates. It could be that her attendance was never recorded. Or maybe she didn't even attend. And that is the incomplete.

Q. Okay.

A. 2-20-08, Jail Suicide Prevention Workshop. 3-1-08, Jail Emergency Preparedness may have. 10-18-08, NCCHC Conference probably did. I don't know on 12-15-08 what Compassion Fatigue might have covered.

Q. So we'll put a question mark there.

A. 2-24-09, Emergency Release Procedures may have. 4-5-09, Community Resources may have 5-6-09, Post-Traumatic Stress Disorder probably did. 6-17-09, Inside the Criminal Mind may have. 8-20-09, Clinical Significant Findings, I have no idea what that is. But it may have. 10-17-09, NCCHC Conference probably did. Again, some of these I just don't know what they are. 11-23-09,

I wouldn't even guess that one. 12-10-09, Behavioral Interviewing may have. 12-15-09, Suicide Reduction Debrief. 12-17-09, Behavioral Interviewing may have. 12-22-09, I have never heard the term "Biotropic." I think it might be psychotropic.

Q. We'll put it in the maybe.

A. Yeah. 3-1-10, Inmate Behavior Management Debrief may have. 3-10-10, Critical Incident Stress Management, I don't know if that was for the employee or dealing with it in the inmate population. But may have. 4-1-10, Emergency Medical Intervention may have.

Q. James Johnson.

A. 6-10-08, New Employee Orientation may have. I don't know what Compassion Fatigue is. 4-5-09, Community Resources may have. 5-19-09, Suicide Assessment Training. 5-22-09, Ethics in Psychotherapy.

Q. Is that a may have? Or would have?

A. May have. I don't know what it is.

Q. Mike Brewer.

A. 7-22-04, New Employee Orientation may have. 10-24-05, Quick Med Software Training.

Q. We can mark may have; is that right?

A. Yeah. 12-12-05, Subclinical Signs of Impending Doom sounds awfully --

Q. Suicidal?

A. Yeah. 4-8-06, Correctional Health Care Training may have. Probably not Neurological Emergencies. 1-10-08, Emergency Preparedness may have. 3-1-08, Emergency Preparedness may have. 1-17-09, Emergency Release Procedures may have. 8-20-09, Clinical Significant Findings may have.

Q. And, Sheriff, I don't think you said the 5-19. But that one is an obvious suicide training; isn't it?

A. Yes. Thank you. I missed that. 8-25-09, Patient Crisis sounds like it probably is. Working with Medical Interpreters, I don't know. 12-15-09, Suicide Reduction Debrief. 12-22-09, Involuntary Psychotropic Meds, probably. Because that is an issue we deal with. I think that is probably what that is meant to be.

Q. Right.

A. 2-16-10, Nursing Protocols and Health Assessments probably did. 3-01-10, Inmate Behavior Management Debrief may have. 3-13-10, Jail Emergency Preparedness Drill may have.

4-01-10, Emergency Medical Intervention may have. 4-20-10, Psychopharmacology probably did.

Q. Ryan Donelson.

A. 1-02-05, Jail Leader Training would have. 2-13-05, Jail Training Program probably did. 3-01-05, Booking Procedures may have. 6-13-05, Interview and Interrogation Training may have.

Q. 6-13?

A. 6-03. I apologize. Again, it appears that he is missing the record of his POST Academy. 9-27-05, Basic Incident Command, because it is eight hours, may have. 10-01-05, Suicide Prevention Training. 3-14-06, Ethics Training.

Q. Ethics training would? Or may have?

A. May have.

Q. Okay.

A. 3-14-06, Suicide Intervention Training. 6-26-06, Jail Block Training probably did. Virtually every block training we include suicide prevention. 8-01-06, Quarterly Suicide Prevention Briefing Training. 9-05-06, Quarterly Suicide SOP. 9-28-06, Quarterly Suicide Prevention Briefing Training. 12-17-06,

Quarterly Suicide SOP. 1-16-07, Jail Block Training. That doesn't have a number of hours. So I just don't know. But, again, normal block trainings we would include something. 12-17-07, Emergency Preparedness may have. 2-20-08, Jail Suicide Prevention workshop. 11-10-08, Booking Procedures may have. 09-01-09, Well-Being Check Debrief may have. 9-19-09, Health Training for Correctional Officers probably did. 12-15-09, Suicide Reduction Debrief. 12-21-09, Jail Emergency Preparedness Drill may have. 1-19-10, Emergency Preparedness may have. 1-19-10, HSU Operational Overview may have.

Q. And that brings us to Deputy Erica Johnson.

A. Yes. 6-14-04, Detention Officer Academy would have. 7-31-04, Jail Training Program would have. 2-18-05, Inmate Medical Mental Issues most certainly would have. 2-18-05, Legal Updates for Correction almost certainly would have. 3-29-05, Hostage Negotiation Training may have. Winning Mindset is hard to say. 10-01-05, Suicide Prevention Training. 3-14-06, Ethics Training may have. 3-14-06, Suicide Intervention Training. 6-14-06,

Handling Suicidal Inmates. 6-26-06, Jail Block Training may have. 8-01-06, Quarterly Suicide Prevention Briefing Training. 12-17-06, Quarterly Suicide SOP. 1-16-07, Jail Block Training probably did. 1-20-08, Crime Scene Investigation may have. 2-14-08, Miranda and Interview in a Detention Setting may have. 2-20-08, Jail Suicide Prevention Workshop. 3-2-08, Health Services Unit Response and Location may have. 3-10-08, Hostage Negotiation -- well, no, I would doubt it. 4-28-08, Emergency Preparedness may have. 11-21-08, Booking Procedures may have. 1-20-09, Emergency Response training may have. 9-01-09, Well-Being Checks Debrief may have. 9-21-09, Health Training for Correctional Officers may have. 12-15-09, Suicide Reduction Debrief. 1-19-10, Emergency Preparedness may have. 1-19-10, HSU Operational Overview may have. 3-01-10, Inmate Behavior Management Debrief may have. 4-01-10, Emergency Medical Intervention probably did.

Q. Jeremy Wroblewski.

A. There should be a gap here, too. He was deployed.

Q. Right.

A. This one appears to have an error or be incomplete.

Q. I'm sorry?

A. This appears to have an error or incomplete. I don't know why he would take the CD on Juvenile Justice Overview for Probation Officers. That might be a data entry error.

Q. You are looking at the first training that we see on his transcript. What is that normally?

A. It says CD's. Which are up above. Three up is Detention Academy CDs. Two above that is the Detention Officer Academy.

Q. And we know that it is part of that.

A. Yeah. So 6-15-08, Detention Officer Academy. And it appears that his Leader Academy is not recorded on here.

Q. Is that NEO-LDR, 6-03-08?

A. No. Because that is only six-and-a-half hours. And Leaders appears to be recorded at typically 200 hours. So I would say there is an omission of the Leader Academy on here. And I don't know why the Detention Post Prep would come after the Detention Academy.

Q. Would that include a suicide element? Suicide training?

A. It could. I don't want to speculate too much. It appears to me from the time frame he would have gone to the Detention Academy an the Leader Academy, which would both have significant elements of suicide prevention. I think that is just lost in this section right here somewhere.

Q. Okay.

A. 4-01-10, Emergency Medical Intervention probably did. 5-01-10, Initial Classification and Suicide Risk Reduction Debrief.

Q. Adam Lowe.

A. 12-15-07, Detention Officer Academy CDs would.

Q. You said 12. But it is 10-15-07?

A. I'm sorry. 10-15-07.

Q. I'm just making sure the record is clear.

A. Thank you. 12-07-07, Emergency Preparedness may have. 4-12-08, Jail Suicide Prevention Workshop. 1-06-09, Cell Extraction may have. You know, I have passed some of these like on 7-09-09, Biohazards Protecting Yourself

from Exposure Debrief, that could touch on it. It probably wouldn't go into depth. Other than people who are suicidal may have cut themselves so you have the biological exposure. So there is probably an element of suicide tha would be in those.

Q. The focus would be in protecting the officer?

A. Yes. 9-01-09, Well-Being Check Debrief may have. 9-17-09, Cell Extraction may have. 9-25-09, Health Training for Correctional Officers may have. 12-15-09, Suicide Reduction Debrief. 12-21-09, Emergency Preparedness may have. 12-21-09, Jail Emergency Preparedness may have. 1-07-10, Emergency Preparedness may have. 1-07-10, HSU Operational Overview may have. 2-23-10, Jail Emergency Preparedness Drill may have. 3-01-10, Inmate Behavior Management Debrief may have. 4-01-10, Emergency Medical Intervention may have. 5-01-10, Initial Classification and Suicide Risk Reduction.

Q. I had a question on -- I believe it was -- give me a moment here to find it. For instance, I noticed this a couple times. Let's turn to the Bates No. 126. That is McKinley.

Second page. On 1-07-08 it indicated JMS Training.

A. Um-hmm.

Q. Then on another one I noticed -- I think it was around February or March of '08. Was that training going on because the employee is new? Or is that because it is being -- it is a new system that was being put in place and people were being trained on it?

A. I don't recall the exact date. I think from the records, because we did -- it has, for the last memorable history, been an inhouse program. But it was revised significantly. And I believe this was all of the training for that software update.

Q. Gotcha. Okay. Thank you. Do you know how long the jail -- well, first of all, are these trainings inside the jail? Are they under your control or are you sending them to outside entities?

A. Both.

Q. The materials inside the Ada County Sheriff's Office, do you know how long those are retained?

A. I do not.

Q. If there is an outside entity that is providing the training does the sheriff's office maintain or receive a copy of the training materials?

A. No, not necessarily. Depending on the course. There are some courses we go to that we would not receive anything back. Some POST may have involvement and they would keep the curriculum. And then some we would have.

Q. All right.

(Exhibit T marked.)

Q. (BY MR. OVERSON) Is this the log of Tammy Parker that you referred to earlier in your testimony that you had reviewed?

A. It appears to be.

Q. And if you need time to look it over to make sure that that is what you looked at, feel free.

A. I didn't pay all that much attention to it the other day. But it is as close as I can recall.

Q. It appears to be what you looked at, but you didn't look at it that close; is that right?

A. Yes.

(Exhibit U marked.)

Q. (BY MR. OVERSON) You have got Exhibit U in front of you?

A. Yes, sir.

Q. Have you seen that letter before?

A. Not to my knowledge or recollection.

Q. It is addressed to you, it appears?

A. Yes.

Q. Was it brought to your attention that the jail had lost NCCHC accreditation in November of '08?

A. Yes.

Q. And that was due to NCCHC surveyors appearing for a scheduled survey, but the jail not being prepared?

A. I suppose that would be a question for NCCHC.

Q. You would have no idea whether or not the jail was prepared to go forward with the survey?

A. That wasn't your question.

Q. I'm asking you that question now.

A. So your question is when NCHHC came to the jail whether we were prepared -- my understanding is from NCCHC's opinion that we

were not.
Q. But your understanding was that NCCHC -- it was their opinion that your jail facility was not able to demonstrate compliance with NCCHC standards; is that right?
A. That is correct.
Q. I understand the jail is still not accredited by the NCCHC; is that right?
A. Correct. At this time.
Q. But you have been trying to schedule a survey?
A. We actually had one scheduled. I believe that we are in compliance. But the assessor was in a car crash or something like that.
Q. Yeah, that was my understanding. So that hasn't gone forward?
A. Correct.
Q. When an inmate makes a statement regarding their medical health do you know if Ada County Sheriff's Office has a policy with regard to how that should be interpreted by the officer?
MR. DICKINSON: Object. Vague.
THE WITNESS: I don't understand.

Q. (BY MR. OVERSON) If an inmate tells an officer that he is suicidal, but the officer's personal opinion is he is just being manipulative, does Ada County Sheriff's Office have a policy to guide that officer in terms of how to interpret the inmate's statement as true or false?
MR. DICKINSON: Object. It's vague. Foundation. Calls for speculation. But you can answer.
THE WITNESS: I don't believe there is a policy that addresses what you just asked.
Q. (BY MR. OVERSON) Are officers of Ada County Sheriff's Office supposed to take the inmate's claims of medical health issues as bona fide?
MR. DICKINSON: Object. Vague. Lack of foundation. Speculation. You can answer.
THE WITNESS: Your question over-simplifies the issue.
Q. (BY MR. OVERSON) Okay. If you could explain.
A. So there are many reasons that inmates say things that aren't true. And part of that is being suicidal. Part of that is being that they

are being assaulted. Part of that is any number of things in order to, for example, seek a cell reassignment to a more preferable area. Maybe move to a protected area where they feel safer. There is a considerable amount of drug seeking behavior. So it is not at all uncommon to have false or baseless allegations. And what the deputy's job is is to then make reasonable and appropriate efforts to continue the conversation and see what is happening. I have had myself as a deputy, as a sergeant, in the jail instances when inmates told me something similar to suicide threats that were really not true, because they were seeking some other remedy.
Q. Okay. But initially when they say they are suicidal you are supposed to take that at face value and then follow procedure?
A. You should be more --
MR. DICKINSON: I'm going to object. I just couldn't tell when the question was finished. Object. Vague. Calls for speculation. Lack of foundation. Go ahead.
THE WITNESS: You should further inquire into that statement.
Q. (BY MR. OVERSON) And that is part of

Ada County policy?
A. Yes. To the best of my knowledge.
Q. But the initial statement by the inmate is taken as bona fide?
MR. DICKINSON: Same objections as before.
Q. (BY MR. OVERSON) Let me ask it this way. It is my understanding you have a policy that says if an inmate says he is suicidal, that the officers should take that at face value and engage the procedures for inmates who claim to be suicidal. Is that true?
MR. DICKINSON: Same objections. Only this time it assumes facts not in evidence. But go ahead.
THE WITNESS: I could not recall the specific -- what the specific policy says. What I focus on as the head of the organization is that they do an appropriate job of following up on any allegation, or threat, or statement that may be endangering themselves or somebody else
Q. (BY MR. OVERSON) Who is in charge of -- the sheriff's office has a website; right?
A. Yes.
Q. I have looked at that website. Quite

impressive. There is a section there where you have press releases.

There was a press release shortly after Mr. Munroe's suicide; right?

A. I don't recall.

Q. You don't recall. Who is in charge of drafting those press releases?

A. My public information officer.

Q. And who would that be?

A. Andrea Deardon. She typically, not always, will do the drafting, the writing, the releasing. But somebody else may draft it and she will finalize it.

Q. Would Linda Scown ever draft those?

A. Possible. But not likely at all.

Q. Would Linda Scown make statements to the press on behalf of the sheriff's office relating to a suicide in the jail?

A. Possible.

Q. Did you read any of the press releases when Mr. Munroe committed suicide in the jail surrounding his death?

A. I would presume so.

Q. Do you recall the press making statements that Mr. Munroe had been in a two-

person cell and his cellmate had been released earlier in the day?

A. I don't recall.

Q. Okay.

A. This may shock you, but they don't always get everything right.

MR. DICKINSON: You might want to clarify when you say "they." Who do you mean?

THE WITNESS: The press.

MR. OVERSON: I understood full well he was referring to the press. And that is true.

Q. (BY MR. OVERSON) Are you familiar with Ada County Jail's policy for well-being checks?

A. Yes.

Q. Can you share that with us?

A. It is really the Idaho Sheriff's Association Jail Standards. So 30 minutes for the typical inmate. And 15 minutes for high-risk inmates.

Q. High-risk inmates would be?

A. Generally suicidal inmates. We seek a 90-percent compliance with that.

Q. And would that also include inmates that are mentally ill?

A. No.

Q. Or intoxicated?

A. No.

Q. Have you ever heard the term "special needs"?

A. Sure.

Q. What is your understanding of "special needs"?

A. Special needs in the general population I'm familiar with. Like a special needs child. When it comes to a special needs inmate --

Q. In terms of Ada County Jail.

A. I don't have a specific definition for that; no.

Q. But do you have an understanding of what a special needs inmate would be?

A. Other than an inmate with special needs.

Q. And by that you are referring to the common, everyday usage of the special needs individuals that may be missing a leg, or maybe they have developmental issues, or something like that. Is that what you are using as the term?

A. Yeah. Again, I have no definition for a special needs inmate. Other than the way that you may say a child with special needs. Anything

that may require any level of special attention, I suppose. I don't know that I have ever heard that term before.

Q. You never heard that term?

A. Special needs inmate? No. Not that I recall.

Q. All right. We talked about the intake process in booking. When the inmate -- I guess they are not inmates yet. Are they arrestees?

A. Arrestees.

Q. An arrestee is brought to the jail by an arresting officer. Or they're reporting. Then they go through the intake/booking process. Then eventually to classification.

But from the time that they enter the jail, and the jail takes custody of them, for lack of a better term, when in the process do they first have access to a telephone?

A. It depends. There is no particular time set. For some people, if we are, say, backed up with the booking process, and it is fairly self-evident that they are going to be able to bond out, we may allow them to go ahead and contact somebody in order to get the bond process in order while they are waiting to be

booked. At other times they may not receive a phone call until they are able to make a telephone call or a telephone is available. Or they have completed the booking process. If somebody is, say, not cooperative, then a lot of times they won't have access to the telephone. Because they may call, and people are coming and wanting to bond them out, but until they cooperate with the booking process we can't bond them out. So there is a long way of saying there is many variables.

Q. My understanding from your deputies prior testimony, and correct me if I'm wrong, I'm just telling you what my understanding is here, is that there is inmates -- or arrestees who come in. And, as you said, it is fairly apparent they can bond out. Let's exclude them from consideration for this line of questioning. Let's focus on those inmates that it is apparent they can't bond out, because they have been arrested on a non-bondable crime. Or charge. They come into the jail.

Can you tell me when they would first have access to the telephone to make a phone call?

A. Most commonly we would process them through the booking process. And they may, depending upon how many people are around -- managing the booking areas are important to us. The workload that occurs right there. Because when we exceed our capacity for workload we make errors. So if, say, nobody else was around, and the person was cooperative, they complete the booking process, and they say, "I need to be to work in 30 minutes. Can I call my boss to tell him I'm not going to be there?" "Sure. Run over and make a call." If it is busier, or we are about to say take people down to the housing area, and we are only waiting on that inmate, we may say, "Go ahead and dress in, because there is a phone in your cell, and you can make the call down there if there is no urgency." Typically, most commonly, it would be after the booking process is complete. But if that is holding up any of our process then we may ask them to wait and make the call out of their housing area. Because there is a phone there.

Q. In?

A. In the preclass house.

Q. Did I understand your testimony then

that booking is going to be done before that person will have access to a phone?

A. Most commonly. But not always.

Q. There might be some exceptions?

A. Yes.

Q. All right. During medical intake during a booking process -- do you know what I'm talking about? The JICS questions regarding suicide?

A. Um-hmm.

Q. Do you know what the policy over at the Ada County Jail is if the inmate answers "yes" to this question, "Have you ever been in a mental institution or had psychiatric care?"

MR. DICKINSON: I'm going to object. Vague. Foundation. Speculation. But if you know.

THE WITNESS: What the policy is?

Q. (BY MR. OVERSON) In terms of what th deputy should do?

A. Probably --

Q. And I'm talking about in that August, September '08 time frame.

A. That certainly lends itself. That question is designed more for the follow-up

information later. Many people have been in life circumstances that have nothing to do with their current circumstances. But I would hope that the deputy would make some follow-up question abou that.

Q. Where and when?

A. Yes.

Q. And if it is recent?

A. Yes.

Q. If it is recent, and for suicide, what should the deputy do?

A. Again --

MR. DICKINSON: Same objection. Go ahead.

THE WITNESS: -- coupled with the other questions. When you say "for suicide." You ask the question about being in an institution. Are you suicidal? No. Maybe some conversation around that. Very different than you have been in an institution. Are you suicidal now? Yes. So it's more of a totality of circumstance.

Q. (BY MR. OVERSON) So is this one of those discretionary calls for the deputy?

A. Not completely. I mean, when somebody says "suicidal" it is a different question than

have you ever been in a --
Q. Well, let's go through the four questions. We talked about the mental institution psychiatric care. Let's go to the next one. If the inmate says -- and let's assume for the purposes of this question that the inmate had said no to the mental institution psychiatric care question.
A. Okay.
Q. "Have you ever contemplated suicide?" "Yes." Does that trigger anything in terms of what the deputy should do under the policy of the Ada County Jail?
MR. DICKINSON: Object. Foundation. Vague. Calls for speculation. But you can answer.
THE WITNESS: Yes. They should further question the inmate.
Q. (BY MR. OVERSON) Anything else?
A. Depends on the answers to those questions.
Q. So if he says "no" to all of the other questions, but "yes" to that one, what should the deputy do?
MR. DICKINSON: Same objections.

THE WITNESS: I think it borders on a misrepresentation of what we train people to do.
Q. (BY MR. OVERSON) I'm not trying to represent anything to you. I'm asking that if you can explain that, that would be great.
A. What I'm saying is that we train our deputies to ask those questions that elicit trigger responses. And from the answers to those questions dig deeper into the situation. And, if necessary, as in this case, call in somebody for assistance. Or if they are not available. So it may lend itself to putting somebody in the holding cell there in the booking area for a 15-minute check where they can be monitored regularly. Or it may lend itself to going to a housing unit. Suicides in larger areas, for example, a dorm situation, are less common than an isolated situation.
Q. "Isolated" meaning like a single-inmate cell?
A. Yeah. But we can't always put people directly in dorm situations. I mean, there is people around. In a dorm, where you have 92 other inmates there, somebody will see what is happening and say, "Hey, don't do that" or will

come and get the deputy. So it lends itself to the environment. It is part of running a jail. So my point is, and I interpret your question to be, based on this specific answer what should they do. My response is, based on the totality of information from all of those answers here is what they should do.
Q. A "yes" answer to "Have you ever attempted suicide?" Would your answer be the same?
MR. DICKINSON: Same objections.
THE WITNESS: Yes. Because it depends on -- particularly on when. A 50-year-old inmate that attempted suicide 35 years ago --
Q. (BY MR. OVERSON) Okay. What about two months ago?
A. It would raise --
MR. DICKINSON: I'm going to object. Foundation. Speculation. Assumes facts not in evidence. Mischaracterizes the facts. But you can go ahead.
MR. OVERSON: You know what, Jim, I'm just going to put it on the record right now that you have that running objection to every single question. Then you don't have to worry about it.

Okay?
MR. DICKINSON: Okay.
THE WITNESS: Sorry. Could you repeat the question?
MR. OVERSON: Can you read it back.
(Record read.)
THE WITNESS: A recent attempt would add to the totality of information that the inmate might be suicidal now.
Q. (BY MR. OVERSON) And so what would the deputy do under the policy if he follows the policy?
A. Again, let me clarify that if there are specific policies to specific questions I don't know what those are.
Q. Okay.
A. So if we have policies that say -- if an inmate answers this answer to this question, I don't know what that is. As the head of the organization, wanting deputies to do the right thing, then if somebody answered, "Yes, I have been suicidal," that should further conversation. "I am suicidal." That should trigger probably either close supervision or somebody else becoming involved to monitor that inmate or talk

to them. Decrease the likelihood that they are suicidal.

Q. Let me just stop you for a second. I don't mean to interrupt you or stop you. Somebody else. Are you referring to medical staff? Is that what you are thinking?

A. Most likely.

Q. Like a social worker? Like Mr. Johnson in this case?

A. Yes. And, again, the gray areas of the jail, we have had many instances where an inmate had a relationship with a deputy and wanted to -- even though the deputy is not trained, wanted to talk to them. And talking through that we prevented suicides or were able to help them out, because of the deputy's personal skills. So if you and I are strangers, and you are not feeling right, and you have known Jim for a long time, and fully trust him, you might say you are suicidal to me and say nothing more. You might talk to Jim and be able to spend 15 minutes with him and look at a totally different perspective in the world. I have personally had that happen with inmates who said they were suicidal and I went and spent a little time with them and gave

them information and perspective that they didn't have and they were fine afterwards.

Q. Is the flip side of that true? Like, for instance, the inmate is not comfortable with a particular individual and says, "No, I'm fine. I'm not suicidal." And then 15 minutes later they say, "Yes, I am suicidal." Because now they are talking to another individual. In your scenario, Jim. They feel comfortable talking to Jim. And they might open up to Jim where they didn't open up to you.

A. I think you are trying to -- the way you are directing the questions is to give black-and-white answers. All of these are possibilities because we are dealing with humans. So the answer may be truthful. It may be untruthful. You may feel more comfortable with one person and less comfortable with another person. You would ask them, "Could it be?" The answer is going to be, "Yes."

Q. But you do agree that an individual could -- and you recognize from your experience -- that is a terrible question. That an individual inmate may tell one deputy, "No, I'm not suicidal," and turn around 15 minutes

later and tell a different deputy that they are suicidal, merely because people might be more comfortable with one person than the other?

MR. DICKINSON: Object. Compound. That wasn't in my objection before.

MR. OVERSON: You can add that one to your list, Jim.

THE WITNESS: I suppose that is possible.

Q. (BY MR. OVERSON) You had indicated that when an inmate makes a statement like I'm feeling suicidal or contemplating suicide, that the first step should be for the deputy to make further inquiry. And I think you indicated that on several questions. Or answers to questions. As the deputy is going through that medical intake form, and they hear a "yes" to one of those four questions, and they make additional inquiry, are they supposed to document that?

A. Not to my knowledge.

Q. No? So there is no requirement that the deputy -- for instance, a "yes" is indicated. The deputy records a "yes" to "I'm feeling suicidal." But then upon further inquiry it's, "You know, I was feeling suicidal." Should the

deputy change it to "no"? Should the deputy make a comment? Or should the deputy just proceed?

MR. DICKINSON: Darwin, I can't hold back anymore. I'm feeling like a potted plant. I have to object. I think it is vague. And I think it is compound.

MR. OVERSON: You know, given the fact that I have given you a standing objection it starts to appear that you are just trying to be, obstructive Jim.

MR. DICKINSON: Darwin, I don't think anyone in the world could ever think that who is in this room today.

THE WITNESS: I don't.

Q. (BY MR. OVERSON) Go ahead, Sheriff.

A. If the initial answer was "yes," and then what you are saying is through the conversation the deputy becomes completely convinced that the true answer is "no"?

Q. Right.

A. To the best of my knowledge, there would be -- the deputy could change the answer to no. And that there would not be any requirement for documentation.

Q. The "no" would be the documentation;

right?
A. Ideally, I would like to have documentation of the change of answer. But I don't know of a policy that says that change of answer has to be documented when at the end of the day the answer is "no."
Q. Okay. During the booking process is the deputy that is handling the questionnaire in the booking process, is there a requirement that they look at past history of that particular individual in the jail from prior incarcerations?
A. At the initial classification I believe there is not.
Q. You used the term "classification." I was referring to the intake screening/medical questionnaire. The JICS portion.
A. Which is jail Inmate Classification System.
Q. Okay. I just wanted to make sure we are not referring to Classifications. We talked about that being further down in the process.
A. I think what you are calling the initial screening, no. The full classification that happens if they stay 72 hours later, then we look at all of those factors. But in the initial

do you go to the initial classification cell, because you may be out tomorrow. Or do you have to go somewhere else. Then, to the best of my knowledge, they don't dig into criminal history.
Q. I might be a little bit confused. An inmate comes in. And at some point they fill out that -- or they are asked those questions. Those four suicide questions.
A. Right. Initial classification. We call them screening. But same thing.
Q. Initial classification. During that are you saying that the deputy has -- doesn't need to look at the individual's prior incarceration record?
A. To the best of my knowledge, there would be many circumstances that they would not see that.
Q. What does that mean?
A. Stop by at 2:00 this morning and you'll find out. The intake area will be completely full. And so as we are bringing in DUI's, and battery suspects, and all of that, that they will come up, they will have the data -- you know, the arrest data. Where you are living now. Your phone number. All of that. And they will go

over and have their photograph taken and their fingerprints taken. When they say, "You know what, I'm just going to sleep it off and get out tomorrow," then in that initial screening, to the best of my knowledge, they don't have the criminal history background in there. That may have changed. But, to the best of my knowledge, it has not. They look at criminal histories when they stay longer.
Q. What about answers to those four questions from prior incarcerations?
A. I don't know.
Q. If an inmate at the Ada County Jail comes in and expresses suicidal ideation, they are thinking about suicide, is there any report that is created in addition to that, you know, questionnaire?
A. Depends on what happens with them. But, generally speaking, no report.
Q. So --
A. I'm sorry. Let me change the wording of that answer. Generally speaking, there is not necessarily a report.
Q. Generally speaking, there is not necessarily a report?

A. Again, these things are fairly common. They come into booking. They are thinking about suicide a little bit. They may be placed in an immediate observation cell in the booking area. A log would be started. Says on the top of the log, "Contemplating Suicide." Check, check, check, check. Bonds out two hours later. There would not be any report generated.
Q. Okay. Let's exclude that inmate and limit the question to the inmate that is being booked in on a non-bondable offense. You know you are going to house him.
A. Too many variables. I probably can't answer that question accurately.
Q. Are you familiar with the policies governing -- during like a suicide assessment, for instance, whether Ada County has a policy governing the privacy of that conversation?
A. Today? Or in 2008?
Q. 2008.
A. There has been many changes, that I could not say for sure.
Q. I'm looking at one of your policies. It is one of the medical unit policies. It is JA 02. And one of the things that is stated in

there is, "In all cases health care services available and provided shall conform to the Idaho Jail Standards and other accrediting agencies." Is that referring to NCCHC?

A. I don't know. I wouldn't have written the policy like that if I was writing it. Because it doesn't say.

Q. So you don't know?

A. I don't know.

Q. How many psychologists were working at the jail in August, September of '08?

A. To the best of my knowledge, none.

Q. And how many social workers?

A. To the best of my recollection, two.

Q. Anybody approach you and ever tell you back in that '08 period before Mr. Munroe's death that "Hey, we need more social workers"? Or, "We need to add another social worker"? Or anything to that effect?

A. As stated earlier, I don't recall. That might be reflected in the budgeting process. I don't recall those particular years. We had made such good strides in the few years before that, that it sort of blurs as to when or what happened

Q. You indicated that the Ada County Jail medical unit was the 12th largest hospital in the State of Idaho?

A. At the time it was opened. If it was a public hospital it would have been by equivalency.

Q. And the mental health portion of it, how do you think that ranked in terms of -- in relation to other mental health facilities in the State of Idaho?

MR. DICKINSON: I know standing objections are still here. But I think it is vague. Calls for speculation. Lack of foundation. But you can answer.

THE WITNESS: As far as capacity it is probably in the top three or four. But it serves a different population than what mental health facilities do in the public sector of Idaho. So to compare physical capacity we could do that. But to compare programatic or clinical abilities it would be apples and oranges.

Q. (BY MR. OVERSON) Are you aware of meetings that are supposed to take place between Health and Welfare and jail staff regarding inmates?

A. Generally speaking.

Q. Generally speaking you are aware of that?

A. Yes.

Q. Can you explain? What are those meetings about?

A. My understanding is to try to maintain some of the continuity and care between the Health and Welfare patients in the community as they come into and out of the jail. As well as some of the financial aspects of who pays for medications for people who are under their custody.

Q. Under their custody?

A. Um-hmm.

Q. Or under your custody?

A. Their custody. As far as if they are under the charge of Health and Welfare in the community and they come into the jail --

Q. Okay. Gotcha. And do you know back in '08, prior to Mr. Munroe's death, were those meetings taking place on a regular basis?

A. Yes, I believe so.

Q. And would there be a record of those meetings?

A. Not that I know of. But there may well have been. I know they were -- I saw them commonly down in the jail. And Dr. Estess was very proud of the relationship we had with them. He thought it was going well.

Q. SOP's that apply specifically to the medical unit. It is my understanding, and correct me if I'm wrong, but they have got their own divisional side of SOP's?

A. Correct.

Q. Then they are also governed by SOP's for the Jail and Court Services Bureau SOP's?

A. Generally speaking, yes.

Q. And then there is another set of policies and procedures that are applicable to the entire sheriff's office. So they would also be applicable to the medical health unit?

A. To maybe better explain. Agency policy governs 90 percent of the situations across all of the agency. Bureau procedures, 90 percent of the procedures across the bureau. Divisional or whatever that terminology may be. In this case Health Services Unit. Again, that becomes very specific. So there are situations where even though it is department policy it cannot or does

not, I think probably cannot, fit every situation. So there may be some variations. What may be in policy, for example, because Health Services Unit is the only area of the sheriff's office with full-time professionally trained medical staff, some things that say a member of the sheriff's office should do this under a medical circumstance may vary because --

Q. I think you maybe read more into my question.

A. Probably.

Q. I'm just trying to make sure that in terms of policies that govern behavior of the medical unit staff there is only three books?

A. Probably so. Yeah.

Q. Any requirement that the medical unit staff review the policies prior to them starting work?

A. No. Not that I'm aware of.

Q. Medical unit staff aside. Let's talk about security staff of your jailers. Two or three books of policies that are applicable to the jail staff? Three?

A. Which assignment?

Q. Booking deputy. How many sets of SOP's

are applicable to them?

A. Likely three again. Agency, bureau, and there is a booking SOP. I think there still should be.

Q. I'm just asking for your knowledge here. Is any portion of the medical unit division SOP's applicable to the booking deputy? If you know.

A. I would say probably not. But I'm not sure.

Q. And --

A. It is not the way we write them or intend them to be. But there could be some overlap.

Q. Are the deputies required to read the policies before they start working?

A. No.

Q. Are they required to read them -- is there any requirement that they read them?

A. Yes. Well, let me correct that. There is a requirement that they know them. So, for example, in Leader there may be many things about policy that are covered under an instructional basis in the classroom. Those probably don't require each of them to go back and be read by

the deputy at that point.

Q. But you would expect your deputies to be familiar with Ada County policies?

A. Correct.

Q. And procedures?

A. Yes.

Q. Let me run through my questions real quick and I may be done.

(Recess.)

Q. (BY MR. OVERSON) Quality reviews in terms of the medical health provision at the jail. Are those performed?

A. To the best of my knowledge. I believe they are.

Q. Do you know how frequently they are?

A. I don't know if you are referring to a particular process that may be alluded to. The contract physician, in this case Dr. Garrett, would do the quality reviews of the medical side when he came in. And Dr. Estess does the quality reviews of the psychological side.

Q. And are you referring to something that would be a quality review of the overall operation of the medical unit?

A. No. They would do the quality review

of the medical care or the psychological care. Not the overall operation of the unit.

Q. So Garrett would do a quality review of medical care at the unit?

A. The jail.

Q. At the jail. And then Estess would do a quality review of the psychiatric care or/psychological care at the jail?

A. Yes.

Q. Do you know a gentleman by the name of Lindsey Hayes?

A. No.

Q. The term "mental illness" is used within the written policies of the mental health unit. As well as the Jail and Court Services SOP's.

What does mental illness within the context of your policies of the Ada County Jail mean to you?

A. To me they would mean a level of psychological problem that would rise to our attention. And it is a very, very broad term. But there are mental illnesses that frankly we wouldn't have a lot of concern about. I think in the policy we are talking about mental illnesses

that we probably do have a level of concern about.

Q. Serious mental illness? Is that kind of what you are saying?

A. It is a mental illness to be -- I think the term is agoraphobic. You don't get out of jail because you are scared of being in certain places. Or there is a DSM classification for fear of heights, and cats, and dogs, and all of that. None of which we care about.

Q. So how does the deputy looking at the policies, when it says mental illness, how do they know what mental illnesses to care about and not care about?

A. We are generally talking about being suicidal. Being psychotic. Paranoid. Schizophrenia. So if the term "serious" applies to those, that would be appropriate.

Q. Seeing hallucinations?

A. Yes.

Q. And hearing voices?

A. Yes.

Q. Would you agree that while the inmates are confined in Ada County Jail, Ada County is responsible for providing health care to those

inmates?

A. Providing a minimally acceptable level of health care; yes.

Q. And while in the jail inmates shall have access to care to meet their serious medical health needs? Do you agree with that statement?

A. As defined by our oversight staff; yes. Many people think their medical need is serious when it is not to us.

Q. But you would agree that objectively -- I'm sorry, objective serious medical health needs for those inmates at Ada County Jail that they shall have access to care to meet their objective serious medical health needs? Do you agree with that statement?

A. To be hypertechnical. You may have a bone problem in your foot that needs surgery for you to be able to enjoy the rest of your life. If you are going to be in Ada County Jail for the next week that should not be our problem.

Q. So you disagree with that statement?

A. Well, I am putting a hypertechnical definition on that statement.

Q. While in the jail inmates shall have access to care to meet their serious mental

health needs. Do you agree with that statement?

A. Again, generally; yes. But hyper-technically there are things that are beyond our capacity to meet. Or that are not something that is within our realm. So I could take the foot analogy and probably put a mental health illnes to it. If it has to do with their safety, or safety of others within the facility, or their ability to stand trial, then it is probably within our realm. But there are other mental illnesses that we don't have the ability to deal with. Or are not appropriate for a jail setting to deal with. A temporary jail setting.

Q. So in those instances the inmate wouldn't have access to --

A. Well, they would have proper access to the diagnosis, and the treatment plan, and all of that. Again, my hypertechnical definition. I suppose, again, coming back to claustrophobia. That could be a life limiting disease. That is not something within the purview of jail mental health.

Q. Is there a policy over at Ada County Jail in terms of when an inmate is offered medical treatment and the inmate says "no," and

refuses, is there a policy that covers that in terms of documenting the inmate's refusal?

A. It's a little broad. What sort of level? Are we talking about "I don't need anything for my cut finger"? Or a more serious issue?

Q. A more serious issue.

A. Well, we get court orders to perform some sort of medical. You know, we get court orders to force medication upon people. I believe that people have the right to refuse most medical care. That is their decision. But in those court orders, for example, sometimes it is about the ability for them to stand trial. I don't know if that helps.

Q. Not really.

A. Then you got to be more specific.

Q. If an inmate is offered mental health treatment because they are suicidal, and the inmate refuses that treatment, is there a policy at the Ada County Jail that says whether or not that has to be documented?

MR. DICKINSON: Object. Speculation. Foundation. Assumes facts not in evidence. But you can answer.

THE WITNESS: Yeah, I don't think I can answer -- again, there is so many variables. I can say the generic of your question is yeah, it makes sense and it should be documented. Are there variables to that? There probably are.

Q. (BY MR. OVERSON) If an inmate refuses mental health treatment when it is offered because they have been determined to be suicidal, is there a policy in place that requires the deputy to obtain a refusal and to have the inmate sign a refusal form?

MR. DICKINSON: Same objections. But go ahead.

THE WITNESS: I would guess not. I don't know for sure.

Q. (BY MR. OVERSON) If you know an inmate is suicidal can an inmate refuse the protections that have been put in place by your policies over there for protection of suicidal inmates?

MR. DICKINSON: Same objections.

THE WITNESS: It is a broad question. What sort of treatment?

Q. (BY MR. OVERSON) Protections. Okay. Let's run through this.

A. Oh, like physical protections?

Q. Yes.

A. If we are going to put somebody in a cell for their own safety they don't have the right to refuse that. If we are going to limit the physical things that they have access to, they don't have the right to refuse that. If they want to sit and not listen to the mental health professional and put their fingers in their ears, there is probably not much we can do about that.

Q. I just want to make sure I understand what you are saying. If the inmate is suicidal he doesn't have a right to refuse and not go into a cell because it has no sheets. It only has a safe cot. It only has a safe blanket.

Those are procedures you recognize as being procedures that are put in place to protect suicidal inmates; right?

A. Yes. If our system determines that somebody should go into -- I mean, we literally have a rubber room.

Q. They can't say, "You know what, Deputy, I would rather not. And I refuse that protection"?

A. Correct.

MR. OVERSON: I have three more questions, Jim. But they are going to require that I go off the record for a moment and return. It won't be long.

MR. DICKINSON: Okay. I object.

MR. OVERSON: He has got his objection on the record.

MR. DICKINSON: No, there is no objection.

(Recess.)

(Exhibit V marked.)

Q. (BY MR. OVERSON) I'm handing you Exhibit V. And I'll represent to you that it is the First Production of Interrogatories and Requests for Admissions. It is the response that you have provided to the plaintiffs in discovery. And while it is a lot of paper, my question to you is, if you would flip through there briefly and just tell me, does it include the SOP's applicable to the medical health unit? Does it include the SOP's applicable to the Jail and Court Services Bureau? And does it include the policies that are applicable to the agency?

A. As best I can tell it is the agency policy manual and the medical standard operating

procedure. I don't see the bureau SOP. And it is possible that that might have been specialized to the point now where it only relies upon the different divisional SOP's. And I may end up being corrected that there is no bureau SOP like there used to be.

Q. I believe there are. Let's go off the record just one second. It won't take long.

(Recess.)

Q. (BY MR. OVERSON) So the medical SOP's, to the best you can determine today, those are the SOP's that cover the medical unit at Ada County Jail?

A. Yes.

Q. And are those the SOP's that were governing the medical unit at the jail in '08 prior to Mr. Munroe's death?

A. In reviewing it I notice some of the dates in there were prior to '08. So my presumption is at least those policies that are in there were in effect for the medical unit in '08.

Q. And in regard to -- I'm sorry, this stack here included the agency SOP's?

A. That's correct. Agency policy.

Q. And those, too, would be the ones that would be in effect in '08 prior to the death of Mr. Munroe?
A. It appears that this version was published in March of '08. And so there is sometimes a transition period between -- when something is published we put it out, study it, understand it, and then have it take effect. But I think it is reasonable to assume that this was in effect. Because it was the end of September; correct? So it is reasonable to assume this was the policy in effect.
(Exhibit W marked.)
Q. (BY MR. OVERSON) You have been handed Exhibit W.
A. Yes.
Q. And do you recognize that?
A. I know what it is.
Q. What is it?
A. This is the Jail and Court Services Bureau Standard Operating Procedures. So this is the governing document for the bureau.
Q. The bureau?
A. The Jail and Court Services Bureau.
Q. And would that be the SOP applicable to

the bureau in 2008 prior to Mr. Munroe's death?
A. I could not say that for sure. I see that it says Revised August of 2008. That is a very tight time frame of when it would be stamped, revised, and when it would actually be put out to the staff and expected to be followed. I'm looking for an adoption date here. If this is what my staff provided to you I believe it would be the appropriate one. But I do have a slight concern with that tight time frame.
Q. Would there be another publication?
A. There would have been one prior to this.
Q. But if it was applicable during the August, September '08 period you would have produced that instead?
A. I hope. Depending on who prepared it. My only concern is -- this says Revised 08 of '08. That typically means the day that everybody said it's good to go. Then we have to send it out and have it printed and put in binders and distributed to staff. I don't know who prepared discovery. If it was somebody who is not familiar with that procedure, potentially a clerical person, they might have looked at this

and said 08 of '08, that must mean it was in effect 09 of '08.
Q. I'm going to refer you back to Exhibit V. I believe it is for Request for Production No. 9. Do you see that?
A. Um-hmm. Yes.
Q. So the request was for production of the Ada County Sheriff's Standard Operating Procedures applicable at the time of Mr. Munroe's death?
A. Yes.
Q. And that was produced as part of that. So you would assume that that was the applicable policy?
A. As I stated I would presume that it was. That is the first time that I have seen the date. That I noticed the date on this. And it just raises a slight concern that we could certainly double-check and confirm.
Q. All right.
(Exhibit X marked.)
Q. (BY MR. OVERSON) You have been handed Exhibit X. Do you recognize that document?
A. Yes.
Q. What is it?

A. It is a photocopy of the verification of the response to the interrogatories.
Q. And request for production and request for admissions to you?
A. Yes.
Q. And was that in relation to Exhibit V?
A. Yes.
Q. So at the time you were swearing, and it's to the best of your knowledge, that the materials in here were true responses?
A. Yes.
Q. And honest responses?
A. Yes.
MR. OVERSON: I'm done.
MR. DICKINSON: I have no questions. We would like to be able to review and sign.
(Deposition concluded at 5:30 p.m.)
(Signature requested.)

REPORTER'S CERTIFICATE

I, MONICA M. ARCHULETA, CSR No. 471, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 13th day of December, 2010.

MONICA M. ARCHULETA, CSR NO. 471
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636

MONICA ARCHULETA NOTARY PUBLIC STATE OF IDAHO

My commission expires August 3, 2012

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EXHIBIT C

EXCERPTS FROM DEPOSITION TRANSCRIPT OF THOMAS WHITE, Ph.D

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiff,

vs.

ADA COUNTY, a political subdivision of the State of Idaho, et al.,

Defendants.

No. CV-OC-2009-01461

COPY

DEPOSITION OF THOMAS W. WHITE, Ph.D.,

produced, sworn, and examined on Thursday, the 18th day of November, 2010 between the hours of 8:00 o'clock in the forenoon and 6:00 o'clock in the afternoon of that day at the Offices of Jay E. Suddreth & Associates, 10104 West 105th Street in the City of Overland Park, County of Johnson, State of Kansas, before:

PEGGY E. CORBETT, RDR-CRR-CSR
Registered Diplomate Reporter
of
JAY E. SUDDRETH & ASSOCIATES, INC.
Suite 100
10104 West 105th Street
Overland Park, Kansas 66212-5755

a Certified Shorthand Reporter within and for the State of Kansas.

Taken on behalf of Defendants pursuant to Notice to Take Deposition.

APPEARANCES

For the Plaintiff:
JONES & SWARTZ, PLLC
Attorneys at Law
1673 West Shoreline Drive, Suite 200
Boise, Idaho 83707-7808
BY: MR. DARWIN L. OVERSON
(Appearing by Telephone)

For the Defendants:

ADA COUNTY PROSECUTOR'S OFFICE
Deputy Prosecuting Attorneys
200 West Front Street, Room 3191
Boise, Idaho 83702
BY: MR. JAMES K. DICKINSON
MS. SHERRY A. MORGAN

INDEX

EXHIBITS

NO EXHIBITS MARKED

THOMAS W. WHITE, Ph.D.,
of lawful age, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. DICKINSON:

Q. We are here today conducting a deposition of Dr. Thomas White according to the Idaho Rules of Civil Procedure, and this deposition is to be used or may be used in any of the methods and ways allowed by that Rule.

Darwin, am I speaking loudly enough? Can you hear me?

MR. OVERSON: Yeah, I think as you get going, if you could raise your voice that would help.

MR. DICKINSON: I think the phone is actually in the best position to catch everybody right now. I was going to move it around.

THE WITNESS: I'm pretty loud.

MR. DICKINSON: I'm the least important person here.

MR. OVERSON: Actually, as you were speaking there, it came across very clearly.

MR. DICKINSON: Oh, perfect. Thank you.

Q. (BY MR. DICKINSON) Dr. White, it's my assumption that you have been deposed before but I'll ask you that anyway. Have you been deposed before?

A. Yes, yes, I have.

Q. How many times do you think you have been deposed?

A. Twice, I think.

Q. Just to go through the ground rules, and you've probably been through those already, once in awhile I'll ask a question that's just terrible, and you won't be able to understand it, and I probably won't be able to either, so if you'd just ask me to restate it or tell me you don't understand it, I'll be happy to do that. Is that fair?

A. Fair enough.

Q. I want to be able to take breaks. I'm going to plan on about every hour and-a-half, but if you need to take one earlier or at a different time, just let me know and I'll be happy to do that. We have water and coffee and everything that you might need, so if you need anything, let us know. Maybe you've had enough coffee already.

A. This will probably do me.

Q. Sure. Oh, sometimes if you're answering and there's some documents, for instance, your report, did you bring your report today? It might be easiest if you just got that now.

MR. DICKINSON: And Darwin, he's getting his report, just so you know the documents that we have.

MR. OVERSON: Okay.

THE WITNESS: This is all the other stuff.

MR. DICKINSON: Oh, okay.

MR. OVERSON: And we're marking that as Exhibit –

MR. DICKINSON: Haven't done it yet, but probably will.

MR. OVERSON: Let me just put on the record real quick that I am not present there, that I am present only by telephone, and so periodically I will be asking questions if there are exhibits used. Is that fair, Mr. Dickinson?

MR. DICKINSON: Perfect, and I should have done that, Darwin, so thank you for doing it.

Q. (BY MR. DICKINSON) If you need to take a break and look for a document, if I ask you a question that you think a document might be helpful

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to help you answer, just let me know.
Are you taking any kind of medications or drugs that would make it difficult for you to understand or be involved in this deposition today?
A. No.
Q. Physically are you well and able to do the deposition today?
A. Yes, I am.
Q. Thank you. Well, let me look real quickly and get my computer screen where I want it.
We can just start if you will just tell us what opinions you've reached in this matter.
A. Well, do you want me to --
Q. If that helps, if referring to your report helps, that's fine.
A. Yeah. I mean I won't read it to you.
MR. OVERSON: I'm sorry what is the question pending?
MR. DICKINSON: The question was what opinions he has reached in this matter, Darwin.
A. I won't read from the document. It's there, but basically that several staff members at the facility handled themselves and managed Mr. Munroe in such a way that they didn't meet professional standards in doing so, and as a result

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of their inappropriate, inadequate behavior, he eventually wasn't adequately assessed, wasn't seen, and eventually committed suicide, and that that didn't happen or didn't need to happen, had he received adequate care and assessment, and that the institution, the management of the institution didn't provide in my judgment enough oversight, policy compliance, to make sure that inmates at the facility received an appropriate amount and adequate amount of care.
It's said a little more succinctly in the report but that's about it.
Q. (BY MR. DICKINSON) Okay, thank you. Were there any other opinions or did that kind of encapsulate everything?
A. That's kind of the umbrella notion. I mean we talked about specific individuals and what the concerns were, but that's generally it, yeah.
Q. Were there any other opinions or did we get everything probably in there?
A. No, I think that was it.
Q. It was pretty broad.
A. Yeah, exactly, yeah, yeah.
Q. Thanks. So what kinds of things did you do to reach that opinion, to get to that opinion?

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A. I reviewed all of the material that was sent to me by counsel, which is listed in the report and in all of that, I don't remember right off-hand everything, but in the material that was sent, were after-action reports, a few affidavits and depositions, policies of the institution relevant to what we're talking about, and material from the institution, you know, computer records, reports, all of that kind of thing.
Q. Okay.
A. And I reviewed all of that, looked at that, looked at all the material, kind of evaluated all of that material, put it all together and analyzed it, and came up with an opinion based on that material.
Q. Okay. Were there any additional bases you used to get to your opinion? You talked about analyzing the information that you had been sent. Anything else you used, any other methods you utilized here, resources?
A. No, other than my experience in dealing with similar issues and policy matters and consultation that I've done in the past, my 26 years of doing this work pretty much every day in prisons, I mean, you know, I guess that, and looking at some

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research and resources, and things like that, but otherwise, no. I mean it was basically a lot of the material and my experience.
Q. Okay. You said you looked at some resources, research resources. Do you recall what those were, or do you --
A. Well, there's a couple that I cited in here, but I have a whole, you know, personal kind of library of research related to these kinds of issues. Over the last ten years that I've done this since I retired, I've kind of become a one-trick pony in this notion of correctional suicides, and so I have a lot of resources and research and that sort of thing that I look at pretty regularly, but I mean it's a whole binder full of things.
Q. Okay. When you say -- you said library, and in my brain I think of a public library or I think of an old English mansion. When you say binder --
A. No. Think of a three or four-ring binder, and you know, a computer with bookmarks to various research studies and that kind of general thing.
Q. Okay.
A. Nothing spectacular other than just a lot of pieces of paper with a lot of information and

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leaders, you know, I don't know. There are a couple of names that are often, you know, kind of repeated that I've seen that I've had cases with or against, you know.

Q. Uh-huh.

A. But by and large, no, I don't think there's kind of a large body of people that kind of set trends.

Much of the material that's relevant comes from research, and particularly a lot of government data collection mechanisms about incidents and demographics, you know, that kind of thing, and then research in the area.

Q. Okay.

A. A lot of people do it, you know --

Q. All right.

A. -- some people that have a lot of experience, but haven't really ever worked in correctional facilities, and I think that's important.

Q. Okay.

A. It's a very unique clientele, a very unique group of people, and just because you have a mental health degree and have seen a lot of clients doesn't mean you really understand a lot of the

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dynamics of working in corrections.

Q. I noted in your background that you had been an instructor at a couple of different universities or colleges.

A. Right, right.

Q. Did you use textbooks in those classes?

A. Oh, sure, sure.

Q. And do you recall who those might have been by?

A. Well, most of --

MR. OVERSON: Dr. White?

THE WITNESS: Yeah?

MR. OVERSON: I'm here by phone. I'd just ask that before responding to questions, give me an opportunity to put an objection on the record here.

I kind of let this go, but I am going to put an objection to the question, it's vague, form of the question. Go ahead and answer.

MR. DICKINSON: Thank you, Darwin.

Q. (BY MR. DICKINSON) Do you understand the question?

A. Sure.

Q. Thank you.

A. Well, I mean I've taught for 20 years,

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probably 30 years off and on.

Q. You're much too young.

A. Yeah, I wish, but I mean the vast majority of my teaching has not been relevant to this at all. It's been introduction to psychology, developmental. I mean I was basically a psychology instructor, for the most part.

I did teach one class at a local four-year college here in forensic psychology, which covered the whole field, you know, of forensic, you know, anything that you might reasonably call forensic, but I don't remember the textbook, you know.

Q. Okay. How long have you worked on this particular case, do you know?

A. Well, I mean I think I was initially, you know, retained a year ago. I want to say in September in '09. I can get the material out to look at if you want, but I didn't really do very much on the case, just up until, you know, whatever this was, October, when I wrote the report, probably a few weeks or so before that, when a lot of the material was sent and everything was organized and it appeared the case was going forward. That's when I, you know, really started to look at the material and that sort of thing.

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Q. Okay.

A. So what is it, a month?

Q. Okay. Do you have even a ballpark idea of how much time you have into it?

A. Yeah, I sent a bill.

Q. I don't want to see that because I think that's protected --

A. Oh.

Q. -- between you and -- I just want to know roughly hours. I won't look if you want me to turn my head.

A. No, I'll look at the hours for you here.

Q. Ballpark is all I want.

A. Yeah. Well, about 35 hours, and then I put in another maybe four or five or something looking at material, getting ready to come over here and some of the additional material that was sent to me earlier in the week.

Q. Okay. And then today, of course?

A. Right.

Q. Thank you.

A. Which will be very brief, I'm sure.

Q. I know. That's how these things are. Well, would you be kind enough to go through your background that qualifies you as an expert to

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A. I think 450, 500. I don't remember it anymore. It was brand new. I mean I opened it, or not me --

Q. I know what you mean.

A. -- but the staff that went there opened the facility. It was brand new at the time.

It was a brand new concept at the time, the idea that the Federal government had a jail right downtown In the heart of the loop in Chicago was a pretty new idea. They have one in LA and they subsequently opened another one in New York.

Q. Do they have many?

A. I think now there's probably about a half a dozen in major cities. Judges like it because it's, you know, two blocks from the Federal Courthouse, and if you've got a terrorist trial going on you have immediate access to people, so judges push real hard to get these places built in major areas where there are a lot of case loads.

Q. What types of crimes, what would people be charged who are in those jails?

A. Any Federal crime, anything.

Q. Okay, so it runs the gamut. You mentioned drugs.

A. Yeah. I mean if there's a Federal

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statute, a USC, you were subject to be there, yeah.

Q. Okay.

A. Anything from gun-running, terrorism, bank robberies.

Q. To the extent that we had that in the '70s.

A. Yeah. Well, in the '70s the big deal was people highjacking airplanes to Cuba.

Q. Oh, yes.

A. I did several competency studies on those guys.

Q. Seriously?

A. Yeah, on those guys. That was the big deal.

And drugs weren't even as big a deal. They were just starting to become a -- bank robbery was the big deal back then.

Q. Okay. Things that happen to Federal property, Federal crimes, thing kind of thing?

A. Well, sure. I don't know if you're familiar, but I mean there's the whole Federal statutes, you know.

Q. Okay.

A. And then anything that happens on a Federal reservation. So if an American Indian, an

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Native American shoots his wife, he goes to Federal prison, you know, for murder and whatever.

If it happens on a military base, or you know, whatever, inside a Federal Courthouse, that kind of thing.

Q. Okay. Oh, and I didn't get when you worked there. You said the '70s but I just guessed because you graduated --

A. I'll give you an approximate.

Q. Just a ballpark is fine.

A. I went to work in Chicago right when I graduated. That was my first job really, in 1975, in August. I stayed there until late '77, I think, December of '77, January of '78 maybe.

I went to Oxford, Wisconsin, the Federal Correctional Institution at Oxford, Wisconsin from '77 until -- I take that back, I think I told you four years, I was wrong -- until '79, so I was there two years, two and-a-half years maybe, and then in '79 I went to Leavenworth, and then was at Leavenworth from '79 until '89 when I was promoted to the region, but I actually did both jobs for a couple of years, and then eventually in '91, I don't know if the numbers work, but in '91 I went over to the Regional Office as a full-time administrator and

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somebody else was hired to be the chief at Leavenworth.

Q. Okay. That was in 1989, did I write that down right?

A. Yeah, yeah.

Q. So in the jail you were a psychologist and you worked with -- and I'm assuming, so correct me -- you worked with inmates?

A. Uh-huh, actually, for the first ten years.

Q. That's what I was wondering.

A. For the first ten years, yeah. When I was at Chicago I worked by myself, so I did everything. If it needed to be done, I did it.

In Oxford I had two other people work for me, but all three of us basically, you know, provided clinical services to inmates, and at Leavenworth for the ten years I was there, staffing went up and down, but about a third of that time I was by myself because of staffing issues, but there were times there were a couple of people that worked for me, and sometimes one, sometimes two, that kind of thing, and we all for that whole period of time, you know, provided clinical services to inmates, and that, you know, was you know, screening people, doing 14-day reviews of people, responding to

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in place that meets the purpose of the standard, the NCCHC will consider that?

A. Generally speaking, yes. It depends. I mean it can't be very inadequate but they don't -- they leave it up to the jail to do what they think is adequate to meet the standard they set, and then they review what it is the jail does, but there isn't anything in stone as to what they have to do. They just have to meet the standard, and they can do that in a number of ways.

Q. Bear with me here just a moment.

A. Just for example, you can go to half a dozen jails that have suicide assessment questionnaires. They will all have them to meet the standard, but they may be six different questionnaires.

Q. Okay.

A. And they may have some items that are the same or different.

Q. Do you know if one of the purposes of the NCCHC standard is to enable a jail to have a set of standards by which they can use as guidelines for meeting the constitutional standards for provision of health care in jails?

MR. DICKINSON: Objection, foundation,

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speculation. I think outside the expertise of this witness, and bear with me, Darwin, something else is coming.

MR. OVERSON: Okay.

MR. DICKINSON: And vague.

MR. OVERSON: It was compound, too, Jim.

MR. DICKINSON: It was compound, you're right. It was compound, that's what I was thinking. Thank you, Darwin. Go ahead and answer.

THE WITNESS: That's why I didn't go to law school. What did you ask? Can we have her read it back?

MR. DICKINSON: Yes, we should.

(Whereupon the prior question was read back by the reporter as follows:

"QUESTION: Do you know if one of the purposes of the NCCHC standard is -- "

A. Oh, yeah, I'm with you. I won't say that that is their purpose, but yes, the standards are I think based on what, you know, litigation and the Supreme Court and the institution say are required, and the standards are designed to provide guidance to make sure that you can meet those standards.

Q. Okay. I think that's all I have. That

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would conclude the deposition unless you have something else, Jim.

MR. DICKINSON: I don't, Darwin.

MR. OVERSON: Okay. And for the record, we would like to review and sign.

THE REPORTER: Do you want me to send it to you or send it to the doctor?

MR. OVERSON: Do you have a preference there, Dr. White? It's probably more timely that way.

THE WITNESS: Whatever works for you folks. It doesn't matter to me.

MR. OVERSON: Actually, now that I think about it, why don't you send it to me and I'll forward it on to the doctor.

THE WITNESS: Do I have to read it all again?

MR. OVERSON: Maybe. No, we just want to be careful.

THE WITNESS: No, I understand.

THE REPORTER: And what would you like in the way of a transcript, a mini, full, e-mail?

MR. OVERSON: Let's get a full size, a mini and an e-mail.

MR. DICKINSON: I'd like a mini, and

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you can just e-mail it to us.

(Witness excused.)

_____.
THOMAS W. WHITE, Ph.D.

STATE OF _____)
) SS:
COUNTY OF _____)

Subscribed and sworn to before me this____ day of_____, 2010.

_____.
NOTARY PUBLIC

My Commission Expires: _____.

In re: Hoagland vs. Ada County, et al.

CERTIFICATE

I, PEGGY E. CORBETT, Certified Shorthand Reporter within and for the State of Kansas, hereby certify that the within-named witness was first duly sworn to testify the truth, and that the deposition by said witness was given in response to the questions propounded, as herein set forth, was first taken in machine shorthand by me and afterwards reduced to writing under my direction and supervision, and is a true and correct record of the testimony given by the witness.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or relative or employee of such attorneys or counsel, or financially interested in the action.

WITNESS my hand and official seal at Overland Park, Johnson County, Kansas, this 19th day of November, 2010.

_____.
PEGGY E. CORBETT, RDR, CSR, CRR
Certified Shorthand Reporter

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; *et al.*, Defendants.	Case No. CV-OC-2009-01461 **PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION**

Plaintiff respectfully submits the following Memorandum in Opposition to Defendants' Motion for Reconsideration.

I. PLAINTIFF ARGUED AGAINST ALL DEFENDANTS' CLAIMS OF QUALIFIED IMMUNITY AND DEFENDANT JOHNSON'S ASSERTION OTHERWISE IS BASELESS

Defendant Johnson argues that he is entitled to qualified immunity first by incorrectly stating that "there has been no argument forwarded by Plaintiff Rita Hoagland . . . that Johnson is

not entitled to qualified immunity." Defendant Johnson's position is untenable since the Plaintiff extensively briefed the issue explaining why Defendant Johnson and all the other Defendants are not entitled to qualified immunity. *See Plaintiff's Opposition to Defendants' Restated Motion for Summary Judgment*, pp. 22-26. Until Defendant Johnson's Motion for Reconsideration, Defendant Johnson's claim to qualified immunity rested solely on his argument that any constitutional right Plaintiff Hoagland had in her relationship with her son was not sufficiently established in Idaho at the time of her son's death to put him on notice that he was violating her constitutional rights. *Memorandum in Support of Restated Motion for Summary Judgment*, pp. 17-19. The Defendants' wrote:

> Thus, to the extent that this Court may choose to somehow acknowledge the violation of a constitutional right in this unique scenario, by its own analysis evidenced in the November 2, 2010, Memorandum and Order, there was no such "clearly established right of the party claiming the violation" in Idaho. As a result, the "individual capacity" New Defendants cannot be expected to have had prior notice that any of their actions could have violated a "clearly established" right regarding Hoagland's § 1983 federal wrongful death claim since (i) it is not acknowledged by the majority of the federal circuits and (ii) it has not previously been recognized in Idaho appellate law.
>
> Quite simply, the novelty of Hoagland's federal claim under Idaho law intrinsically precludes liability pursuant to the second step of the qualified immunity analysis.

Id. at 18-19 (emphasis added). Since the Defendants' qualified immunity claim rested on the second prong, the Plaintiff focused her opposition on demonstrating that it was Mr. Munroe's constitutional rights that were at issue when considering whether a *clearly established constitutional right* had been violated by the Defendants, and factually demonstrating how that right was violated in this case by the Defendants. *See Plaintiff's Opposition to Defendants' Restated Motion for Summary Judgment*, pp. 22-26.

Plaintiff set forth in her statement of *Genuine Issues of Material Fact* the record upon which a reasonable jury could conclude that Defendant Johnson was deliberately indifferent to Mr. Munroe's clearly established constitutional rights. *Id.* at 2-11; *see Conn v. City of Reno*, 591 F.3d 1081, 1096 (9th Cir. 2010) ("Objective juror could certainly conclude that in light of all of the circumstances Clustka's actions evidence a serious medical need" making summary judgment inappropriate). Plaintiff included specific citations to the affidavits, depositions, admissions on record, expert reports, and pleadings on file to support her statement of *Genuine Issues of Material Fact.* By comparison, as was set forth in Plaintiff's opposition to Defendants' restated motion for summary judgment, the Defendants made no effort to prove the absence of a genuine issue of material fact on any element of the Plaintiff's case.

Defendant Johnson's baseless statement that the Plaintiff has not argued that he is not entitled to qualified immunity should be disregarded by this Court.

II. DEFENDANT JOHNSON'S NEW CLAIM FOR QUALIFIED IMMUNITY MISCONSTRUES *SAUCIER v. KATZ*

Defendant Johnson for the first time argues that he did not violate Mr. Munroe's constitutional rights because he was aware of and considered all the relevant facts suggesting Mr. Munroe was a suicide risk and simply made a mistake when he decided to take Mr. Munroe off of suicide watch. *Memorandum in Support of Defendants' Motion for Reconsideration Pursuant to IRCP 11(a)(2)(B),* pp. 7-23. All of Defendant Johnson's prior arguments for qualified immunity have been aimed at whether Ms. Hoagland's constitutional rights were clearly established at the time. *Id.* at 18-19. In support of his new position, he cites to his own deposition testimony as new evidence that sheds light on his own "thought processes when assessing Munroe the morning of September 29, 2008." *Id.* at 3. According to Defendant

Johnson, this "new" deposition testimony "shows without a doubt that Johnson considered Hoagland's telephone call and Munroe's request for protective custody when making his determination regarding Munroe's risk of suicide." *Id.* How Defendant Johnson's reminiscing on his thought process on September 29, 2008 qualifies as "new" evidence is confusing at best.

Nonetheless, Defendant Johnson goes on to argue that based what he now knows (since it is "new" evidence) about his thought process on September 29, 2008, this Court somehow must conclude that no constitutional violation occurred and therefore he is entitled to qualified immunity. *Id.* at 6-7. He asks this Court to accept at face value his assertion that he did not have the necessary state of mind for liability to attach. *Id.* at 3. His argument fails to recognize that "questions involving a person's state of mind are generally factual issues inappropriate for resolution by summary judgment." *See Conn v. City of Reno*, 591 F.3d 1081, 1098 (9th Cir. 2010) (a defendant's subjective awareness is a question for the jury since a court cannot make credibility determinations or weigh conflicting evidence at the summary judgment phase).

His argument completely ignores the summary judgment standard requiring this Court to view the evidence in a light most favorable to the non-moving party by drawing all reasonable inferences in that party's favor. *Saucier v. Katz*, 533 U.S. 194, 201 (2001) ("A court required to rule upon the qualified immunity issue must consider, then, this threshold question: Taken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right?"); *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 720 (1990) ("All doubts are to be resolved against the moving party, and the motion must be denied if the evidence is such that conflicting inferences may be drawn therefrom, and if reasonable people might reach different conclusions.").

Defendant Johnson's position is odd since he then goes on for several pages arguing that the first step in the qualified immunity analysis cannot be the same analysis as that applicable for determining whether a genuine material issue of fact exists as to liability. *Memorandum in Support of Defendants' Motion for Reconsideration Pursuant to IRCP 11(a)(2)(B),* pp. 3-5. He cites *Saucier v. Katz*, 533 U.S. 194 (2001), in support of his position. *Memorandum in Support of Defendants' Motion for Reconsideration Pursuant to IRCP 11(a)(2)(B),* pp. 4-5. However, the argument is misguided since it inappropriately attempts to apply the reasonableness standard from Fourth Amendment jurisprudence to this Fourteenth Amendment due process claim. *See Saucier*, 533 U.S. at 203 ("In *Anderson*, a warrantless search case, we rejected the argument that there is no distinction between the reasonableness standard for warrantless searches and the qualified immunity inquiry."). The confusion that *Saucier* resolved was between the reasonableness standard for determining when the Fourth Amendment had been violated and the qualified immunity standard for determining whether an officer would reasonably be on notice that his actions violated the Fourth Amendment. *Id.* at 201-03.

Saucier has limited application to jail suicide cases brought under the Fourteenth Amendment's due process clause since liability hinges on the higher *mens rea* standard of deliberate indifference. The confusion that existed prior to *Saucier* regarding the two separate reasonableness inquiries in Fourth Amendment cases does not arise in this case because liability does not hinge on the officer's reasonableness. It hinges on the officer's deliberate indifference.

Thus, in the context of medical needs cases, a finding that a genuine issue of material fact exists as to liability in a jail suicide case forecloses a finding of qualified immunity; provided, however, that there is sufficient case law to put the officer on reasonable notice that the inmate's medical need poses a significant risk of serious harm to the inmate. *See, e.g., Cross v. City of*

Des Moines, 965 F.2d 629, 632 (8th Cir. 1992) (defendant bears the burden of demonstrating that "no material issues of fact remain as to whether [his] actions were objectively reasonable in light of the law and the information [he] possessed at the time of his actions.").

While the Fourth Amendment demands that intrusion into a citizen's privacy be objectively reasonable – *see Michigan v. Fisher*, 130 S. Ct. 546, (2009) (ultimate touchstone of the Fourth Amendment is reasonableness) – the qualified immunity analysis focuses on a different question: Based on the case law existing at the time an officer acted, was it reasonable for the officer to believe he was not violating an individual's Fourth Amendment rights. *Saucier*, 533 U.S. at 202-06. Fourth Amendment jurisprudence aims to strike a balance between an individual's interest in privacy and society's need to investigate crime. *United States v. Knights*, 534 U.S. 112, 120 (2001). It is a policy decision where to draw the boundaries between the private and the public. *Atwater v. City of Lago Vista*, 532 U.S. 318, 346-7 (2001); *United States v. Robinson*, 414 U.S. 218, 234-35 (1973). It is policy grounded in the reasonable expectations of privacy. *California v. Greenwood*, 486 U.S. 35, 40 (1988) ("The warrantless search and seizure of the garbage bags left at the curb outside the Greenwood house would violate the Fourth Amendment only if respondents manifested a subjective expectation of privacy in their garbage that society accepts as objectively reasonable.") (*citing O'Connor v. Ortega*, 480 U.S. 709, 715 (1987)). The Fourth Amendment only protects against unreasonable search and seizure. United States Const., 14th Amend. The question of liability in a § 1983 case based on the Fourth Amendment therefore hinges on whether there was an unreasonable intrusion into a plaintiff's privacy.

The reasonableness question within the second prong of the qualified immunity analysis is an entirely different matter from that in Fourth Amendment cases generally. *Saucier*, 533 U.S.

at 203-06. The qualified immunity analysis within the context of the Fourth Amendment, such as in the case of *Saucier,* is different than the analysis within the context of the due process clauses of the Eighth and Fourteenth Amendments. Under *Saucier*, a court may find under the first prong that an official violated a citizen's Fourth Amendment right to be free of unreasonable search and seizure, and yet still find qualified immunity because a reasonable officer under similar circumstances would not know, based on the case law then existing, that his actions were in contravention of Fourth Amendment protections. *Id.* at 203-07. Though it appears contradictory on its face, the reasonableness inquiry for determining whether a constitutional violation has occurred and the reasonableness inquiry for qualified immunity purposes is distinctly different. *Id.* For the purposes of determining whether a Fourth Amendment violation has taken place, the question is whether the privacy intrusion is objectively unreasonable. *Id.* For the purpose of qualified immunity, the question is whether, based on prior case law, an officer would be placed on reasonable notice that his actions were a violation of the Fourth Amendment. *Id.*

By comparison, when conducting the liability analysis under the Eighth and Fourteenth Amendments' due process clauses, a genuine issue of material fact must exist on the question of whether the official was deliberately indifferent to the serious medical needs of the inmate in order to avoid summary judgment in favor of the defendant. *See Short v. Smoot*, 436 F.3d 422, 429 (4th Cir. 2006) ("record permitted a reasonable inference that Ferguson knew Short was attempting to commit suicide" foreclosing summary judgment). The inquiry is whether there are sufficient facts upon which a reasonable jury could conclude the officer was subjectively aware of the serious medical need and was indifferent to that need. *Id.* This Court has already found that a genuine issue of material fact exists as to whether Defendant Johnson was subjectively

aware of the serious medical needs of Mr. Munroe and was deliberately indifferent to that need. On the record before the Court, the only way Defendant Johnson would be entitled to qualified immunity would be if the case law at the time was not sufficiently developed to put Defendant Johnson on fair notice that his actions would violate the constitutional rights of Mr. Munroe. *Clouthier v. County of Contra Costa*, 591 F.3d 1232, 1245 (9th Cir. 2010) (citing *Cabrales v. County of Los Angeles*, 864 F.2d 1454 (9th Cir.), vacated on other grounds, 490 U.S. 1087 (1989), opinion reinstated, 886 F.2d 235 (9th Cir. 1989)). Since the constitutional right to reasonably adequate medical care for suicidality was well established by prior case law on September 29, 2008, a genuine issue of material fact as to whether Defendant Johnson was deliberately indifferent to Mr. Munroe's constitutional rights forecloses a grant of summary judgment on qualified immunity grounds. *See id.* (inmate's rights were sufficiently established as of 1988 to put law enforcement on notice of their obligations to protect suicidal inmates).

Here, there was sufficient case law in place at the time to provide Defendant Johnson fair notice that deliberate indifference to Mr. Munroe's medical needs would violate Mr. Munroe's constitutional right to reasonably adequate medical care. *See id.* Every Circuit but the Second Circuit has held that an official who shows deliberate indifference to an inmate's serious risk of suicide is liable under 42 U.S.C. § 1983 for violating the inmate's constitutional right to reasonably adequate medical care. *Bowen v. City of Manchester*, 966 F.2d 13, 16-17 (1st Cir. 1992) (official who is deliberately indifferent to inmate's serious risk of suicide may be held liable under 42 U.S.C. § 1983); *Colburn v. Upper Darby Township*, 946 F.2d 1017 (3rd Cir. 1991) (plaintiff must show "(1) the detainee had a 'particular vulnerability to suicide,' (2) the custodial officer or officers knew or should have known of that vulnerability, and (3) those officers 'acted with reckless indifference' to the detainee's particular vulnerability."); *Short v.*

Smoot, 436 F.3d 422, 429 (4th Cir. 2006) ("record permitted a reasonable inference that Ferguson knew Short was attempting to commit suicide" foreclosing summary judgment); *Rhyne v. Henderson County*, 973 F.2d 386, 392, 394 (5th Cir. 1992) ("Jailers and municipalities beware!") (Goldberg concurring); *Jaco v. Bloechle*, 739 F.2d 239, 244-45 (6th Cir. 1984) (mother has standing to pursue personal claim of her son against jailers for their deliberate indifference toward protecting her son from serious risk of suicide in jail); *Bradich ex rel. Estate of Bradich v. City of Chicago*, 413 F.3d 688, 690-92 (7th Cir. 2005) (material issue of fact as to deliberate indifference of officers to inmate's suicidality precluded summary judgment); *Wever v. Lincoln County*, 388 F.3d 601, 605-6 (8th Cir. 2004) (denying motion for summary judgment where facts showed prior suicides in the jail put jailer on notice that training and supervision was inadequate which demonstrated deliberate indifference to suicidal inmates' serious medical needs); *Cabrales v. County of Los Angeles*, 864 F.2d 1454 (9th Cir.), judgment vacated by 490 U.S. 1087 for further consideration in light of *City of Canton v. Harris*, 489 U.S. 378 (1989), and judgment reinstated by 886 F.2d 235, *cert. denied* 494 U.S. 1091 (1990); *Barrie v. Grand County, Utah*, 119 F.3d 862, 865 (10th Cir. 1997) (duty to suicidal prisoner is to not be deliberately indifferent to prisoner's serious medical need); *Snow ex rel. Snow v. City of Citronelle, AL*, 420 F.3d 1262, 1268 (11th Cir. 2005) ("In a prison suicide case, deliberate indifference requires that the defendant deliberately disregard 'a strong likelihood rather than a mere possibility that the self-infliction of harm will occur.'"); *Dorman v. District of Columbia*, 888 F.2d 159, 162 (D.C. Cir. 1989) (deliberate indifference standard applies in jail suicide case); *see* 60 Am. Jur.2d Penal and Correctional Etc. § 207 (Suicide) (2008) (cataloging cases that hold that a jail official violates an inmate's constitutional rights when the official is deliberately indifferent to the serious risk of suicide).

Since the extensive case law that existed on September 29, 2008, addressing the constitutional obligation of jailers to provide medical treatment and security to protect suicidal inmates from self-harm provided Defendant Johnson fair notice that his action would violate Mr. Munroe's constitutional rights, he cannot satisfy the second prong of the qualified immunity analysis. In order to prevail on summary judgment, he must affirmatively demonstrate that no reasonable jury could find he violated Mr. Munroe's constitutional rights. This Court has already determined that a genuine issue of material fact exists as to whether Defendant Johnson was deliberately indifferent to Mr. Munroe's constitutional rights. Nevertheless, Defendant Johnson wishes to revisit the issue by presenting additional evidence – none of which is newly discovered evidence.

In this case, Defendant Johnson concedes that if he knew of "Munroe's risk for suicide, then disregarded that risk," he is not entitled to qualified immunity. *Memorandum in Support of Defendants' Motion for Reconsideration*, p. 6. He also concedes that he "considered all the information presented to him the morning of September 29, 2008." *Id.* at 7. The record in this case is full of information that was presented to Defendant Johnson that indicated that Mr. Munroe was at a serious risk of committing suicide. *Deposition of James Johnson*, 112:18 – 114:9, 134:4 – 139:21, 142:3 – 242:17, 244:17 – 254:6, and Exs. AA, BB, CC, EE, FF (pp. 12-13), MM, NN; *Affidavit of James Johnson*; *Deposition of Wroblewski*, 39:1-24, 41:11 – 45:15, 59:2-22, 60:17 – 67:3, and Ex E (Bates #Def.2ndSuppResp 00090-91); *Deposition of Leslie Robertson*, 19:16 – 20:1, 24:1 – 30:19, and Ex. C (Bates #Def.2ndSupp.Resp.00127).

During Defendant Johnson's deposition he testified that he understood the seriousness of the suicide risk that Mr. Munroe faced:

Q. Let's turn to page 136, the next page. Towards the bottom of the page, there's a box, and it's dated -- appointment date, 9/29/2005. "Assess suicide risk in booking." So you saw your 29th appointment with Mr. Munroe as a suicide assessment?

A. Mm-hm.

Q. But not your September 1, although you did a suicide assessment?

A. Right. Correct.

Q. On the 29th, when you were done speaking with Bradley, was it your understanding that he'd been hospitalized at Intermountain for making statements that he was going to commit suicide or an actual attempt?

MR. DICKINSON: Object to the question. Assumes facts not in evidence. May misstate. But go ahead and answer, if you can.

THE WITNESS: You know, I don't know for sure what my thinking was at the time, because -- I know that I had documented ideation and an intent, but, you know, I don't know that I was thinking suicide attempt.

I certainly knew that he had made them in the past. But, you know, I don't know that I was thinking, on that date, this was the attempt that he made. But I know that he's made more than one attempt in the past, by report of himself and other people.

And intent, actually, tends to carry a lot. When I use the word "intent," you actually know that I have a high level of concern about that. Because ideation is a frequent occurrence for many, many people who never come to the attention of mental health and who do come to you.

Intent to hurt yourself, you know, I knew that there was a serious element. Whether I had that in my idea -- you know, in my idea that he had actually also done the things that we know that he had done, the overdose and the cutting -- I mean, intent actually -- I know that this guy was planning and wanting to hurt himself.

BY MR. OVERSON:

Q. Okay. So that –

A. So I had a serious -- you know, I understood the seriousness of it. When you see my word "intent" -- because, clearly, often people with ideation don't require a higher level of observation in the jail.

Because they say, you know, "These thoughts are entering my head, they bother me, but, you know, I can manage them. I don't intend to die. I'm not intending to hurt myself."

So intent -- the fact that I wrote "intent" makes me -- it may have been even, actually, the wrong word. Maybe I meant he attempted? But just the fact it's there makes me know that I was very clear that, you know, this guy – it's been serious in the past.

Q. So I just want to make sure I understand. Suicidal ideation may be down here on the risk level. And then intent, the next level. And--

A. Means, available means, method, and those kinds of things and--

Q. Okay.

A. --you know, planned? Means, intent -- or means, method, plan, and then attempt, yeah, you're starting to arc way up into what you consider increased risk.

Deposition of James Johnson, 240:5 – 242:17. Defendant Johnson subjectively knew that Mr. Munroe was facing a serious likelihood of committing suicide.

If Defendant Johnson was subjectively aware of that information, certainly a reasonable juror could conclude that he was subjectively aware of the serious risk of suicide Mr. Munroe was facing. The testimony of experts Dr. White, Dr. Metzner and Social Worker Powell all indicate that Defendant Johnson's conduct on September 29, 2008, not only deviated from accepted standards but constituted an **extreme deviation** from those standards. That Defendant Johnson had years of experience as a clinical social worker only bolsters a finding that he consciously recognized the risk of suicide and deliberately ignored that risk.

Defendant Johnson is not entitled to summary judgment based on his self-serving testimony claiming he exercised reasonable clinical judgment when he decided to remove Mr. Munroe from suicide watch. His claim that he exercised reasonable clinical judgment is severely undermined by his own testimony. He testified first that Mr. Munroe was not on suicide watch, and then he testified that he was on suicide watch. *Compare Deposition of James Johnson*, 246:18-20 ("Mr. Munroe, who I had met with and cleared from suicide watch, ...") with 186:20 – 189:2 (denying any knowledge that Mr. Munroe was on suicide watch the morning of September 29, 2008 when Defendant Johnson met with him) and 195:12 – 197:17 (testimony relating to documentation of Defendant Johnson taking Mr. Munroe off suicide watch). How could Defendant Johnson have exercised reasonable clinical judgment without knowing the clinical status of his patient at the time he spoke to Mr. Munroe?

Despite the incredible testimony Defendant Johnson has offered in his deposition, he now asks this Court to grant him summary judgment by accepting favorable portions of his testimony at face value and inviting this Court to make appropriate credibility determinations and weigh the evidence. *See Ellis v. Washington County*, 198 F.3d 225, 228-29 (6th Cir. 1999) (evidence must be viewed in light most favorable to non-moving party and where factual dispute exists as to whether a defendant is entitled to qualified immunity, summary judgment must be denied).

There is good reason for this Court to reject Defendant Johnson's invitation to accept his testimony at face value. Significant conflicts exist between Defendant Johnson's testimony and the testimony of other witnesses. For instance, Defendant Johnson claims that one reason he did not re-assess Mr. Munroe after Leslie Robertson told him the information conveyed to her by Ms. Hoagland explaining that Mr. Munroe had threatened suicide over the phone that morning from the jail, was that he had just seen Mr. Munroe. However, Defendant Johnson's timeline is

not consistent with the testimony of Leslie Robertson or jail records. According to Leslie Robertson, she conveyed the information to Defendant Johnson in very specific terms shortly before 10:37 a.m. *Deposition of Leslie Robertson*, 19:16 – 20:1, 24:1 – 30:19, and Ex. C (Bates #Def.2ndSupp.Resp.00127); *Deposition of James Johnson*, 112:18 – 115:5, 226:14 – 227:6, 248:10-12. The record is not disputed that Defendant Johnson completed his conversation with Mr. Munroe just minutes after 8:00 a.m. *Deposition of Leslie Robertson*, 19:16 – 20:1, 24:1 – 30:19, and Ex. C (Bates #Def.2ndSupp.Resp.00127); Deposition of James Johnson, 112:18 – 115:5, 226:14 – 227:6, 248:10-12; *Deposition of Wroblewski*, 17:3 – 19:3, and Ex. B.

Another instance of conflicting testimony is between Defendant Johnson's description of Mr. Munroe's demeanor when he spoke to Mr. Munroe, and the description provided by Defendant Wroblewski during the same time frame. Defendant Johnson described Mr. Munroe as being as relaxed, calm, comfortable, speaking clearly, pleasant, not angry, respectful, and cooperative. *Deposition of James Johnson*, 137:9 – 138:16, 179:7-23. Defendant Wroblewski described Mr. Munroe as being in poor physical condition, under the influence of alcohol, smelling of alcohol, annoyed, angry, hearing voices in his head, seeing shadow people, confused, talking about committing suicide, and behaving in a manner that suggested to Defendant Wroblewski that Mr. Munroe was at risk of suicide. *Deposition of Wroblewski*, 39:1-24, 41:11 – 45:15, 59:2-22, 60:17 – 67:3, and Ex. E (Bates #Def.2ndSuppResp 00090-91).

There is strong evidence conflicting Defendant Johnson's testimony that Mr. Munroe was functioning with "reasonable social skills" and was not showing the symptoms of suicidality. The Defendants submitted to this Court audio recordings of the telephone calls Mr. Munroe made to Catherine Saucier on the morning of September 29, 2008, shortly after Defendant Johnson spoke to Mr. Munroe. During the conversation, Mr. Munroe sounds manic, desperate,

depressed, confused, unrealistic, and all of which demonstrates a dangerously unbalanced state of mind. He states that the only drug he wanted was Thorazine (a powerful antipsychotic medication). Most unsettling is that he states that he is planning to take his life. The audio recordings clearly contradict Defendant Johnson's description of Mr. Munroe's mood and apparent state of mind.

Defendant Johnson's reliance on the testimony of Dr. Estess and his own experts' reports is contradicted by the expert testimony of Dr. White, Dr. Metzner and LSCW Powell. Yet, Defendant Johnson insists that this Court accept his experts' opinions over those of Plaintiff's experts, again calling on this Court to make inappropriate determinations of credibility and weighing of the evidence. An additional reason exists for this Court to disregard Defendant Johnson's position that he is entitled to summary judgment merely because his experts say he is not liable, which is that none of the information is newly discovered evidence. Defendant Johnson had full access to Dr. Estess' testimony long before any depositions were taken. The expert reports of all of his experts were disclosed to Plaintiff long before the briefing of Defendants' Restated Motion for Summary Judgment. It is simply inappropriate information on a motion for reconsideration where Defendant Johnson has had access to the evidence for months prior to the briefing deadline.

III. REMEDIES IN THIS CASE ARE A MATTER OF FEDERAL LAW SUPPLEMENTING THE REMEDIES AVAILABLE UNDER IDAHO'S WRONGFUL DEATH STATUTE

Defendant Johnson asks this Court to address what damages are available to the Plaintiff in this case. He argues that punitive damages are not available because they are not available under Idaho's wrongful death statute. However, the wrongful death statute does not define the cause of action itself, as remedies under § 1983 are broader than under Idaho's wrongful death

statute and survivor statute.[1] Federal common law governs the remedies available under 42 U.S.C. § 1983.[2] The federal remedy ***supplements*** the state remedy.[3]

It would be constitutionally impermissible to limit the Plaintiff's remedies under 42 U.S.C. § 1983 to those available under Idaho's wrongful death statute. The wrongful death statute does not define the claim as it is impermissible to import in a wholesale fashion the state tort actions into the federal cause of action provided for under § 1983.[4] Pursuant to the United States Supreme Court's instruction in *Moor v. County of Alameda*,[5] the "wholesale importation" into § 1983 claims is not permitted.[6] Rather, Idaho's wrongful death statute provides Ms. Hoagland standing to redress the injury to her son's constitutional rights and provides for certain remedies that standing alone are insufficient to fulfill the policy reasons underlying § 1983.

Remedies available to Ms. Hoagland in this case are much broader than those under the wrongful death statute and include, among others, loss of companionship, loss of life, pain and suffering of the deceased, and special and punitive damages.[7]

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[1] *See Carey v. Piphus*, 435 U.S. 247, 254-57 (1978).
[2] *Id.*
[3] *See Smith v. Wade*, 461 U.S. 30, 85 (1983) (emphasis added).
[4] *Moor v. County of Alameda*, 411 U.S. 693, 701-04 (1973) ("Considering § 1988 from this perspective, we are unable to conclude that Congress intended that section, standing alone, to authorize federal courts to borrow entire causes of action from state law.").
[5] 411 U.S. 693, 701-04 (1973), overruled on other grounds by *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978) (holding municipality may be liable for § 1983 damages).
[6] *Id.*; *Krozser v. City of New Haven*, 562 A.2d 1080, 1085-86 (Conn. 1989).
[7] *See Sawyer v. Claar*, 115 Idaho 322, 766 P.2d 792 (Ct. App. 1988), disapproved in part on other grounds, 117 Idaho 157, 786 P.2d 548 (1990) (action by parents for death of adult son); *Berry v. City of Muskogee*, 900 F.2d 1489, 1507 (10th Cir. 1990) ("We believe appropriate compensatory damages would include medical and burial expenses, pain and suffering before death, loss of earnings based upon the probable duration of the victim's life had not the injury occurred, the victim's loss of consortium, and other damages recognized in common law tort actions."); *Braillard v. Maricopa County*, 232 P.2d 1263, 1277-78 (Ariz. App. 2010) (punitive damages are inadequate to satisfy the deterrent purposes of § 1983); *see also McFadden v. Sanchez*, 710 F.2d 907, 911 (2nd Cir. 1983) (punitive damages); *Bass by Lewis v. Wallenstein*, 769 F.2d 1173, 1188 (7th Cir. 1985) (federal common law governs § 1983 remedies which

Defendant Johnson also argues that he cannot be held liable for punitive damages in this case because he did not have a sufficiently evil state of mind to justify punitive damages. The argument appears to be a direct challenge to the holding in *Smith v. Wade*[8] where the United States Supreme Court held that deliberate indifference was a sufficiently evil state of mind to justify an award of punitive damages.[9] However, until *Smith* is overruled, this Court is bound by the holding in *Smith* since it is the law of the land. Under *Smith*, deliberate indifference is a sufficient *mens rea* for establishing liability and a claim for punitive damages in the context of § 1983 claims involving cruel and unusual punishment.[10]

IV. CONCLUSION

Defendant Johnson's Motion for Reconsideration should be denied. He has not offered any new evidence in support of his motion. All of the evidence he submits has been available to him long prior to briefing his Restated Motion for Summary Judgment. He also provides no further legal authority or argument on the legal issues raised in his Restated Motion for Summary Judgment. Rather, he raises an entirely new argument. He argues that he is entitled to qualified immunity because he testified in his deposition that he made a reasonable clinical judgment. He bolsters his self-serving and often contradictory testimony with expert reports (and Dr. Estess'

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include decedent's pain and suffering and loss of life damages); *Andrews v. Neer*, 253 F.3d 1052, 1063 (8th Cir. 2001) (recovery for injury to decedent permitted); *Garcia v. Whitehead*, 961 F.Supp. 230, 233 (C.D. Cal. 1997) (punitive damages alone are inadequate as deterrent); *Guyton v. Phillips*, 532 F.Supp. 1154, 1164-66 (N.D. Cal. 1981) (pain and suffering, loss of life, funeral expenses, medical bills, punitive damages); *Gotbaum v. City of Phoenix*, 617 F.Supp.2d 878, 884 (D. Ariz. 2008) ("Most courts have concluded that state statutes limiting civil remedies in cases where a constitutional violation has caused death to the victim simply are not consistent with the purposes of section 1983").

[8] 461 U.S. at 85

[9] *Id.*

[10] *Estelle v. Gamble*, 429 U.S. 97, 105-6 (1976); *Farmer v. Brennan*, 511 U.S. 825, 842-44; *Smith*, 461 U.S. at 56.

testimony)[11] that have been available to Defendant Johnson since at least November 10, 2010. Previously he limited his argument for qualified immunity to the notion that Plaintiff Hoagland's constitutional rights had not been clearly established at the time of Mr. Munroe's death. Defendant Johnson argued that this Court had created an entirely new cause of action unknown in Idaho and rejected by most of the federal courts. The new argument, by comparison, focuses on whether Defendant Johnson acted reasonably when he removed Mr. Munroe from suicide watch. It is an argument based in part on a misunderstanding of the holding in *Saucier* where the United States Supreme Court resolved the confusion that had arisen in the federal circuits between the reasonableness standard under the Fourth Amendment for liability and the reasonable standard that is part of the second prong of the qualified immunity analysis. Defendant Johnson misconstrues *Saucier* by failing to recognize that that case resolves confusion that arose within the context of Fourth Amendment jurisprudence, and not within the context of Eighth and Fourteenth Amendment jail suicide cases where, due to the differing standards for liability, no similar confusion has arisen. At the time of Mr. Munroe's death, the case law was so well established that no reasonable officer could claim unfair notice that his deliberate indifference to an inmate's serious likelihood of suicide would lead to a violation of the inmate's constitutional rights. Jail officials have long been warned of the consequences of their actions. As Judge Goldberg put it in his 1992 concurring opinion in *Rhyne v. Henderson County*, 973 F.2d 386, 392, 394 (5th Cir.), "Jailers and municipalities beware!"

Accordingly, Defendant Johnson's Motion for Reconsideration should be denied.

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[11] It should be noted that Defendants never disclosed Dr. Estess as an expert witness and agreed during his deposition that he would not be providing expert opinion testimony in this case. Estess Dep. 31:20 – 36:16.

RESPECTFULLY SUBMITTED this 25th day of February, 2011.

JONES & SWARTZ PLLC

By _____
ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February, 2011, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

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Sherry A. Morgan
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al., Defendants.	**Case No. CV OC 0901461** **DEFENDANTS' OBJECTION AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S AFFIDAVIT OF COUNSEL, AND OBJECTION AND MOTION TO STRIKE NEW OPINION AND AFFIDAVIT OF DR. WHITE IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER**

COME NOW, the Defendants by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan, and Ray J. Chacko, Deputy Prosecuting Attorneys, Civil Division, and object to and move this Court for an Order striking portions of the Plaintiff's Affidavit of

Counsel in Support of Plaintiff's Motion for Reconsideration of this Court's January 20, 2011 Memorandum Decision and Order and the Opinion and new Opinion of Dr. White in Support of Plaintiff's Motion for Reconsideration. This Objection and Motion is pursuant to Idaho Rules of Civil Procedure 56(e) and 12(f). This Motion is supported by the Memorandum filed herewith.

DATED this 25th day of February 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February 2011, I served a true and correct copy of the foregoing DEFENDANTS' OBJECTION AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S AFFADAVIT OF COUNSEL, AND OBJECTION AND MOTION TO STRIKE NEW OPINION AND AFFIDAVIT OF DR. WHITE IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER to the following persons by the following method:

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al., Defendants.	**Case No. CV OC 0901461** **MEMORANDUM IN SUPPORT OF DEFENDANTS' OBJECTION AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S AFFADAVIT OF COUNSEL, AND OBJECTION AND MOTION TO STRIKE NEW OPINION AND AFFIDAVIT OF DR. WHITE IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER**

I. INTRODUCTION

In support of her February 11, 2011 Motion for Reconsideration, Plaintiff filed an Affidavit of Counsel (hereinafter "Overson Affidavit") and a new Affidavit and Supplemental Report of Dr. Thomas White (hereinafter "Supplemental Report"). Plaintiff bases her Motion for

Reconsideration partially upon the Overson Affidavit and the newly proffered opinions found in White's Supplemental Report, both of which the Defendants object to and move to strike pursuant to Idaho Rules of Civil Procedure 56(e) and 12(f), and applicable case law.

II. ARGUMENT

A. Objection to and Motion to Strike Certain Paragraphs of the Overson Affidavit.

Idaho Rule of Civil Procedure 56(e) (the summary judgment affidavit rule) provides:

> Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. . .

Paragraph 13 of the Overson Affidavit purports to lay foundation for a number of exhibits attached to various depositions, and states:

> Various deposition exhibits appear in the deposition exhibit binders as photocopies of CDs and DVDs. As is the usual course the court reporter has maintained the original exhibits. True and correct copies of those deposition exhibits are being provided to the Court as follows.

Paragraph 14 of the Overson Affidavit is worded similarly, stating: "As depositions were taken in the case, deposition exhibit binders were maintained by the court reporter."

A number of exhibits were marked and referred to during Plaintiff's depositions. However, some exhibits were referred to during the depositions, while others were not. Oftentimes the deponent was not asked proper foundational questions for the exhibit, and other times the deponent was not the proper witness to lay foundation for the exhibit.

In her Motion for Reconsideration, Plaintiff is offering these exhibits for evidentiary purposes. Before the Court can rely upon them, however, it is incumbent upon Plaintiff to provide the proper evidentiary foundation for each exhibit. Forwarding that the court reporter

"kept" all of the exhibits in a binder is not a proper basis for admission pursuant to the rules of evidence.

As a result of Plaintiff's failure to comply with the Idaho Rules of Evidence, those exhibits are not "admissible in evidence" as required by the rules. Defendants object to the admission of and move to strike each of the exhibits listed in paragraphs 13 and 14 of the Overson Affidavit based upon Relevancy (I.R.E. 401, *et. seq.*), Witness Competency (I.R.E. 601 and 602), Opinions and Expert Testimony (I.R.E. 701, *et. seq.*), Hearsay (I.R.E. 801, *et. seq.*) and Authentication and Identification (I.R.E. 901, *et. seq.*). *See also, Cates v. Albertson's Inc.*, 126 Idaho 1030, 895 P.2d 1223 (1995).

B. Objection to and Motion to Strike Dr. White's Supplemental Report.

1. Dr. White's Supplemental Report is Untimely.

Dr. Thomas White is an expert witness hired by the Plaintiff in this matter. His original Report, produced pursuant to the Court's scheduling order and the Idaho Rules of Civil Procedure, consisted of a 13-page report dated October 11, 2010. In the course of preparing their defense in this matter, Defendants traveled to Overland Park, Kansas and on November 18, 2010, deposed Dr. White, relying on his opinions as set out in this October 11, 2010, 13-page Report.

Just two weeks ago, Plaintiff filed an entirely new 14-page Supplemental Report from Dr. White. However, it is difficult to see how a 14-page report, which is longer that the original report, and which contains new opinions, can be seen as a "supplement."

Defendants expended time and money to travel to Kansas (where Dr. White resides) to conduct the deposition of Dr. White and learn the *entirety* of his opinions in this matter. In fact, Defendants specifically asked Dr. White "what opinions he reached in this matter," followed

with, "Were there any more opinions or did that kind of encapsulate everything?" And, to make sure, "Were there any other opinions or did we get everything probably in there?" The questions were answered affirmatively by Dr. White. Aff. of Counsel filed February 25, 2011, Ex. C (White Dep., p. 6, LL. 11-25; p. 7, LL. 1-21).

At the deposition, the Defendants did not have, nor did they expect to later receive, another opinion after they incurred travel expenses, hotel costs, rental car expenses and attorney time preparing for the deposition.

Dr. White states as the basis for his Supplemental Report that he was not in possession of deposition transcripts of the Defendants and other witnesses when he authored his original Report. However, as this Court will recall, Plaintiff asked this Court to continue the Defendants' May 2010 Summary Judgment Motion, as her expert witness wanted depositions to review.[1] Despite her expert's wish, and the continuance, Plaintiff waited until November 16, 2010 (6 months later and 4 days *after* the Summary Judgment Motion filing deadline) to conduct her first deposition in this case.

Plaintiff now appears to have gained an unfair advantage by waiting until the Defendants conducted Dr. White's deposition, and waiting until after the Court's Summary Judgment ruling to obtain a new opinion from their expert. Dr. White now has the opportunity to address concerns this Court has raised, and has attempted to exploit perceived weaknesses in the

[1] Plaintiff forwards that the depositions of James Johnson, Kate Pape, Karen Barrett, Gary Raney, Shanna Phillips, Michael Brewer, Jamie Roach, Candace Bowles, and Linda Scown are "newly discovered" evidence. "Newly discovered" appears to be a term associated with Idaho Criminal Rule 34, where it is listed as a basis for new trial. Here, though, these depositions are not "newly discovered," rather they are depositions scheduled and taken by the Plaintiff *after* the Defendants' Restated Motion for Summary Judgment was filed.

Defendants' case. This practice is not fair, is prejudicial to the Defendants, and should not be allowed.

Therefore, the Defendants object and move to strike this new expert opinion pursuant to Idaho Rule of Civil Procedure 12(f) and 26(b)(4), due process, and this Court's Scheduling Order, as the Supplemental Report is untimely, and the Defendants have been unduly prejudiced by the late production. *See City of McCall v. Seubert*, 142 Idaho 580, 130 P.3d 1118 (2006).

2. If Dr. White's Supplemental Report is not Stricken as Untimely, it Should Be Stricken Because its Allegations Are Insufficient, Redundant and, in Part, Misleading.

a. Dr. White Provides Incorrect Facts as a Basis for His New Opinion.

The Defendants believe that is important for the Court to know that there are many factual inaccuracies in White's Supplemental Report, and will discuss the most glaring examples below.

On page 6 in his second paragraph, Dr. White alleges that there was no professional oversight of the Health Services Unit Mental Health Staff. This is incorrect. His paragraph later explains that Pape had "clear lines of authority" over the HSU. White also discusses Dr. Michael Estess, the Jail's contract psychiatrist, and refers to Dr. Estess' deposition in support of his contention. However, White ignores the fact that Dr. Estess was available to the Health Services Unit staff twenty-four (24) hours per day, seven (7) days per week. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep. p. 7, LL. 4-22). White also ignores the fact that Kate Pape, the Administrator of the Health Services Unit, is a licensed MSW. Aff. of Counsel (filed February 25, 2011), Ex. A (Pape Dep., p. 194, LL. 6-8; p. 187, LL 7-14).

White also forwards that Dr. Estess "did not see himself as anything more than a consultant with no supervisory or oversight responsibility." Again, this is an incorrect statement. Even a skim of Dr. Estess' deposition proves contrary. Dr. Estess explained during his deposition that he provides, "competent medical-psychiatric supervision, consultation, and treatment" at the Jail. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep., p. 6, LL. 16-18). Regarding Dr. Estess' supervisory role, the following exchange took place between Hoagland's counsel and Dr. Estess:

> Q. . . . You had mentioned supervision at the jail. What were your responsibilities in terms of supervising the staff there in the jail?
>
> A. Whatever I thought was reasonable or appropriate. . . . And I always took it as my responsibility to make judgments about anybody that provided mental health services. Judgments about their assessments. Their perspective. Their reasoning. Their thinking. Their recommendations about whatever. . . . I saw supervision as just a willingness to interact with anybody that delivered mental health services.

Id., p. 15, LL 4–25; p. 26, LL 1-4.

Dr. Estess views his charge pursuant to his contract:

> To evaluate clinical competence on the part of the people that I work with....Then I view it as my responsibility to communicate that to administrative staff who are responsible for hiring these people. And being responsible for them. So I take it upon myself to make judgment on a regular basis about the clinical competence of the people that I work with.

Id.., p. 29. LL 2-14.

Dr. Estess clearly sees his role as much more than a consultant with no supervisory or oversight responsibility, as White would have it.

White also states that Dr. Estess did not remember anything about discussing Munroe's case with Johnson, except that it happened. A review of Dr. Estess' deposition transcript shows that this statement is also incorrect. Dr. Estess provided nine (9) pages of detailed testimony

regarding his conversation with Johnson. Aff. of Counsel (filed February 11, 2011), Ex. B (Estess Dep. pp. 61-70). Dr. Estess talked to Johnson at length about Johnson's assessment of Munroe, and challenged Johnson on everything he did. *Id.*, p. 65, LL. 2-11, 20. As the Jail psychiatrist, and in his role as a consultant and supervisor, Dr. Estess wanted to make sure that Johnson had engaged in deliberate consideration, and concluded that he had. *Id.*, p. 64, LL. 14-15; p. 65, LL. 14-25; p. 66, LL. 1-25. In Dr. Estess' words: "I grilled him a lot about what he thought about it. How he thought about it. Why he did what he did. And did he consider it. And it is my perspective that he considered it." *Id.*, p. 67, LL. 15-19.

Dr. White explains under "Mr. Johnson's Management of Mr. Munroe" on page 2 that Psychiatric Social Worker Jim Johnson "ignored two additional pieces of new information obtained subsequent to his initial interview" with Munroe. Assuming Dr. White is referring to the September 29, 2008 interview,[2] he did not specify what the "ignored information" was. But, to the extent the "ignored information" was the phone call from Bradley Munroe's mother, Rita Hoagland, Johnson did take the call into account, and explained: "I mean my very involvement with him that morning was based on the fact, that at some point he had identified himself as suicidal... Makes perfect sense a mom would call and tell us that." Aff. of Counsel (filed February 11, 2011), Ex. F (Johnson Dep. p. 121, LL. 7-14; *see also* pp. 112–124; pp. 250-252). Clearly, Johnson did not ignore this information as stated by Dr. White.

Dr. White sweepingly implies at the bottom of page 3, the bottom of page 5 and the top of page 6 that Johnson did not receive training for his job at the Jail. A cursory review of Johnson's deposition reflects that Johnson has done a suicide assessment on every patient he has

[2] Johnson's "initial" interview with Munroe lasted around 15 minutes and took place in the Jail medical unit on September 1, 2008.

seen during his 30 year career of working directly with patients. *See Id.*, p. 50, L. 17, p. 51, LL. 1-25, p. 52, LL. 1-13. Furthermore, Johnson spent four years (2000 to 2004) conducting suicide assessments in a California jail before coming to Ada County. *Id.*, p. 87, LL. 8–25; p. 88, LL. 1-3. When first hired, Johnson trained in the Ada County Jail, spending two weeks becoming familiar with and reading the Jail's documentation, policies and procedures, touring the Jail, learning the differences in dorms, the Jail referral process and how to do rounds each morning. This was demonstrated to him by Senior Social Worker Shanna Phillips. He continued his on-the-job shadowing not only with Phillips, but Social Worker and Health Services Director Kate Pape, and the Jail's contract psychiatrist Dr. Estess, as well as the nurse practitioners. Shanna Phillips and Dr. Estess both observed Johnson's early patient interviews and questioned him afterward as to his impressions of the inmates. Afterward, Phillips would observe him episodically. Additionally, every morning Phillips and Johnson divided inmates each would see, which included talking about the inmate/patients. *Id.*, pp. 62 – 65. Johnson describes his work with Kate Pape, Shanna Phillips and Dr. Estess as "collaborative." They "communicate[d] a lot, pass[ed] each other in the hallways" and "[ate] in a common dining room." *Id.*, p. 32, LL. 16–25; p. 33, LL. 1-3. Shanna Phillips and Kate Pape read Johnson's progress notes. *Id.*, p. 54, LL. 22–25; p. 55, LL. 1- 4. The statement by Dr. White that Johnson did not receive training while at the Jail is therefore inaccurate.

In the last paragraph on page 4, White's assertion that Johnson's supervisor, Shanna Phillips, "never formally reviewed [Johnson's] performance," is incorrect. Two paragraphs above, White explains that "Johnson did receive two evaluations from Ms. Phillips, one on December 16, 2008 and the other on June 19, 2009."

These inaccurate facts, which are merely a sample of the inaccuracies relied upon, form the basis of the opinions found in Dr. White's Supplemental Report, and as such, his Supplemental Report should be striken.

b. Dr. White's New Opinion Alleges, at Most, Negligence.

Taking into consideration the entirety of White's new opinion, just as the first opinion, it fails to make the necessary allegations to support a § 1983 lawsuit. Dr. White's broad allegations are couched as: "acceptable standards of care...unacceptable standard of care...unreasonable...can't help but wonder...one must ask...problematic...laissez-faire...far less proactive than what is needed...doesn't always follow NCCHC recommendations...may or may not be occurring...deficiencies...chronic noncompliance...raise[s] serious questions...jeopardized...due diligence...accepted professional standards and practices."

None of these broadly leveled allegations rise to the level required to bring or sustain a § 1983 lawsuit. In fact, the coup de grâce is White's assertion, made at the top of page 10 under his "Analysis of New Information" section, that it is "*impossible to know* if offenders are receiving constitutionally adequate medical care." White Affidavit, Ex. A, p. 10 (emphasis added). Since a § 1983 Plaintiff *must* prove an unconstitutional action, and that the unconstitutional action led to an injury, this admission (that it is *impossible to know* if the care is constitutional) by the Plaintiff's expert essentially terminates her § 1983 case against all of the Defendants (including Johnson).

As such, Dr. White's Supplemental Report is merely a red herring that obfuscates the real issues at hand.

III. CONCLUSION

Plaintiff attempts to rely on evidence for her Motion for Reconsideration, but has failed to provide the necessary foundation to admit it. Improperly submitted evidence should not be considered by the Court.

Plaintiff also submits a new opinion of one of her experts long after the date set by the Court's Scheduling Order, months after he was deposed by Defendants, and after the Court had already ruled on Summary Judgment. This is unfair and prejudicial to the Defendants and this practice should not be allowed.

DATED this 25th day of February 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of February 2011, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF DEFENDANTS' OBJECTION AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S AFFADAVIT OF COUNSEL, AND OBJECTION AND MOTION TO STRIKE NEW OPINION AND AFFIDAVIT OF DR. WHITE IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

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Sobetta Meyers

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **DEFENDANTS' REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION PURSUANT TO I.R.C.P. 11(a)(2)(B)**

I. ARGUMENT

As argued in the Memorandum in Support of Defendants' Motion for Reconsideration (hereinafter "Reconsideration Brief"), Defendant Jim Johnson (hereinafter "Johnson") is clearly entitled to qualified immunity based on the entirety of the record herein, including the additional facts Johnson presents to the Court. Summary judgment in favor of Johnson on the merits of the

case is also warranted. As discussed below, Plaintiff Rita Hoagland (hereinafter "Hoagland") forwards no valid argument that would require a different result.[1]

A. Hoagland Applies the Wrong Standard to Defendants' Motion for Reconsideration.

Throughout Plaintiff's Memorandum in Opposition to Defendants' Motion for Reconsideration (hereinafter "Response Brief"), Hoagland continuously states that the facts presented by Johnson in his Reconsideration Brief are not "newly discovered evidence," and therefore should not be considered by the Court.

However, there is no requirement that a party present evidence that is "newly discovered" on a motion for reconsideration. Rather, a party may present "new or *additional* facts," or a more comprehensive presentation of both law and fact, for the purpose of obtaining "a full and complete presentation of all available facts, so that the truth may be ascertained, and justice done, as nearly as may be." *Coeur d'Alene Mining Co. v. First Nat'l Bank*, 118 Idaho 812, 823 (1990) (emphasis added).

Johnson has provided additional facts for the Court to consider, with the intent that the Court will have before it a full and complete presentation of all the available facts.[2]

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[1] Hoagland incorrectly states that until his Motion for Reconsideration, Johnson's only qualified immunity argument was that the law was not clearly established regarding Hoagland's constitutional right to her relationship with Bradley Munroe (hereinafter "Munroe"). Response Brief, p. 2. The Defendants thoroughly argued that Johnson was entitled to qualified immunity in both their Memorandum in Support of Restated Motion for Summary Judgment (*see* pp. 12-19), and their Reply Memorandum in Support of Restated Motion for Summary Judgment (*see* pp. 12-21), specifically arguing that Johnson was not deliberately indifferent to Munroe's constitutional rights. *Id.*, pp. 17-21.

[2] Since this is a § 1983 case, Hoagland has the duty to prove the constitutional deprivation that underlies her claims. *McAllister v. Price*, 615 F.3d 877, 881 (7th Cir. 2010). However, she fails to present sufficient facts to meet this burden. Hoagland's failure left this Court to search the record to find facts to apply to the qualified immunity analysis. After reviewing the Court's Memorandum, it appeared to the Defendants that additional evidence would be helpful for the Court to complete its qualified immunity analysis regarding Johnson.

B. Hoagland Continues to Misunderstand the Qualified Immunity and Summary Judgment Analyses in § 1983 Cases.

Despite the Defendants' and this Court's continued explanations of the qualified immunity and summary judgment analyses intrinsic to § 1983 cases, Hoagland continues to misunderstand and confuse the two, often citing to outdated case law.[3]

In her Response Brief, Hoagland states, "Defendant Johnson's position is odd since he goes on for several pages arguing that the first step[4] in the qualified immunity analysis cannot be the same as that applicable for determining whether a genuine material issue of fact exists as to liability." Response Brief, p. 5. In the interest of brevity, Johnson will not fully restate his arguments regarding the U.S. Supreme Court's instructions found in *Saucier v. Katz*, 121 S.Ct. 2151 (2001)[5] regarding a qualified immunity analysis versus summary judgment on the merits, but will instead point the Court to pages 3-5 of its Reconsideration Brief. However, for the benefit of this Court, Johnson will discuss Hoagland's misreadings of the law below.

1. Qualified Immunity Is a Question of Law for a Court to Decide.

Qualified immunity is a question of law. *Johnson v. County of Los Angeles*, 340 F.3d 787, 791 (9th Cir. 2003); *see also Bulfer v. Dobbins*, 2011 WL 530039 (S.D.Cal). Such is true regardless of the underlying constitutional claim, whether it be a claim of excessive force or a

[3] One begins to wonder if the misunderstanding and confusion are genuine.
[4] The United States Supreme Court recently held that the qualified immunity steps do not have to be conducted in sequence. *Pearson v. Callahan*, 129 S.Ct. 808, 815 (2009).
[5] Hoagland is attempting to distract this Court by arguing that Johnson cites to *Saucier* for the purpose of arguing that the excessive force standard should be applied in this case. Response Brief, pp. 5-8. Johnson made no such argument. Hoagland's position highlights her continued inability to grasp the Supreme Court's holding in *Saucier* relating to qualified immunity. Johnson cites to *Saucier* strictly for the purpose of its qualified immunity analysis.

jail suicide case. In *Johnson v. County of Los Angeles* (a § 1983 excessive force case),[6] the district court concluded that whether the deputy knew of or should have known that the plaintiff suffered an injury was a question of fact that precluded summary judgment on both the underlying claim of excessive force and the deputy's defense of qualified immunity. *Id.*, p. 791. Following the directive of the United States Supreme Court in *Saucier*, the Ninth Circuit reversed the district court, holding that,

> [t]he district court erred in denying summary judgment to Deputy Woodard. His use of force was objectively reasonable and he is entitled to qualified immunity. On remand, we instruct the district court to enter summary judgment in favor of Deputy Woodard on [plaintiff's] state law claim as well as the claim of excessive force."

Id., p. 794.

The Ninth Circuit concluded, "[t]his requirement calls upon *courts, not juries*, to settle the ultimate questions of qualified immunity." *Id.*, p. 791 (emphasis added). To the extent the determination of qualified immunity depends upon disputed issues of material fact, the court shall assume as correct the version asserted by the non-moving party. *Id.*, n. 1.

Therefore, Hoagland is completely mistaken when she states, "Since the constitutional right to reasonably adequate medical care for suicidality was well established by prior case law on September 29, 2008, *a genuine issue of material fact* as to whether Defendant Johnson was deliberately indifferent to Mr. Munroe's constitutional rights *forecloses a grant of summary*

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[6] As with *Saucier*, even though this case involves an excessive force claim, the qualified immunity analysis utilized by the U.S. Supreme Court and the Ninth Circuit is applicable and, contrary to Hoagland's assertions, is the law that must be applied to Johnson's qualified immunity defense. The qualified immunity analysis in *Saucier* applies to *any* qualified immunity defense, regardless of the underlying constitutional claim. *See Nation v. State*, 144 Idaho 177 (2007).

judgment on qualified immunity grounds."[7] Response Brief, p. 8 (emphasis added). Whether there is a genuine issue of material fact is not part of the equation when conducting a qualified immunity analysis, since whether a defendant is entitled to qualified immunity is a question of *law*, and not of fact. Case law (directly from the United States Supreme Court) cannot be any clearer on the matter.

As such, while accepting as true Hoagland's version of the facts, this Court must determine, *as a matter of law*, whether Johnson is entitled to qualified immunity. Only if the answer is "no" does the Court then conduct a more standard summary judgment analysis, keeping in mind Hoagland's added burden of proving the underlying constitutional violation. *McAllister v. Price*, 615 F.3d 877, 881 (7th Cir. 2010). However, in this case (based on the limited record before it), this Court was "unable to find that Johnson did *not* act with deliberate indifference." Memorandum, p. 36 (emphasis in original). The Court could not say definitively that Johnson was deliberately indifferent, nor could it say definitively that he was not. The additional facts presented by Johnson[8] should aide the Court in reaching the final determination (as it is required to do), as a matter of law, that Johnson was not deliberately indifferent towards Munroe, and therefore entitled to qualified immunity.

In her Response Brief, Hoagland attempts to misdirect the Court from applying the proper analysis by providing conclusory statements stemming from an incomplete presentation

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[7] Hoagland makes similar statements throughout her Response Brief, for example: "in the context of medical needs cases, a finding that a genuine issue of material fact exists as to liability in a jail suicide case forecloses a finding of qualified immunity" (Response Brief, p. 5); and "[t]he inquiry is whether there are sufficient facts upon which a reasonable jury could conclude the officer was subjectively aware of the serious medical need and was indifferent to that need" (*Id.*, p. 7).

[8] Most noteworthy is Johnson's deposition transcript, which presents an uncontroverted factual record for this Court as to Johnson's state of mind. *See* Morgan Aff. (filed February 11, 2011), Ex. F. (Johnson Dep.).

of the facts in the record. Given the additional evidence presented by Johnson, and when reviewed in context with the entirety of the record, it is clear that Johnson is entitled to qualified immunity. Further, since Hoagland has failed to prove any constitutional violation, Johnson is also entitled to summary judgment on the underlying claims.

C. Hoagland Leaps to Incorrect Conclusions Based on the Facts She Cites, and Fails to Paint a Complete Picture.

Hoagland quotes from Johnson's deposition transcript in an attempt to show that Johnson "understood the seriousness of the suicide risk that Mr. Munroe faced." Response Brief, p. 10-12. However, this quote from Johnson is misleading in that it does not stand for what Hoagland says it does. Hoagland states that this quote shows that "Johnson subjectively knew that Mr. Munroe was facing a serious likelihood of committing suicide." *Id.* p. 12. Hoagland bases this on Munroe's August 2008 stay in Intermountain Hospital. However, a review of the medical records from Munroe's August 4, 2008 to August 5, 2008 admission shows that his chief complaint was not suicide, but rather, Munroe admitted himself into Intermountain Hospital to "get [h]is medicines adjusted."[9] Calhoun Aff.

Hoagland also states that the testimony of her experts – Dr. White, Dr. Metzner and Social Worker Powell – indicates that Johnson deviated from "accepted standards." Response Brief, p. 12. However, Hoagland fails to mention that Johnson's experts – Dr. Kennedy, Dr. Lundt, Dr. Novak, Mr. Rosazza, and Social Worker Mecham – opine that Johnson *was* within the accepted standards. *See* Affs. of Kennedy, Lundt, Rosazza, Novak, and Mecham. Conflicting expert opinion does not prohibit a finding of qualified immunity (see arguments above). In fact,

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[9] The medical records indicate that Munroe's treating physician, Dr. Steven Bushi, knew of Munroe's two previous suicide attempts and hallucinations, yet Dr. Bushi discharged Munroe *the day after* Munroe admitted himself, stating that by the time of discharge, Munroe's depression had cleared significantly, and he could be safely discharged and continue his treatment on an outpatient basis. Calhoun Aff.

a trial court is to review the facts and make a determination "as a matter of law." In this case, the fact that there is a bona fide disagreement between the expert witnesses shows that Johnson's belief that Munroe would not harm himself was legitimate. Moreover, none of Hoagland's experts have (or even have the ability) to opine that Johnson knew Munroe was of a substantial risk for suicide and intentionally disregarded that risk.

Further, Hoagland states that there are "significant conflicts" between Johnson's testimony and that of other witnesses. First, she argues that there is conflicting testimony between Johnson's description of Munroe's demeanor the morning of September 29, 2008, and Deputy Wroblewski's description.[10] Response Brief, p. 14. However, other testimony and evidence actually *corroborates* Johnson's description of Munroe as being calm, cooperative and pleasant with deputies, able to concentrate, look, listen, and respond in a respectful tone, and did not look to be in any terrible distress. Morgan Aff. (filed Feb. 11, 2011), Ex. F (Johnson Dep.), pp. 174-181. For example, Deputy Donelson testified that Munroe was in good spirits when he escorted him into Cellblock 7. *Id.*, Ex. C (Donelson Dep., p. 39, LL. 9-19). As to Munroe's

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[10] Hoagland states that Deputy Wroblewski described Munroe as being "under the influence of alcohol." Response Brief, p. 14. Hoagland misstates Wroblewski's testimony, as the following dialogue between Hoagland's counsel and Wroblewski indicates:

Q. Okay. Would you say Bradley was intoxicated when you were talking to him about all this stuff, or was he just hung over?
A. I would say that he was hung over. I – I don't know. He – he wasn't like falling over himself drunk.
Q. But he still smelled like alcohol?
A. Yes.
Q. Okay. Were there aspects of his demeanor that suggested to you that he was under the influence of alcohol still?
A. No, just – just the odor.
Q. Just the odor?
A. Yes.
Q. And he was hung over?
A. That's what it seemed like to me, yes.

Morgan Aff. (filed March 4, 2011), Ex. A (Wroblewski Dep.), p. 85, LL. 7-22.

demeanor, Donelson testified that Munroe seemed like any other inmate; just normal, not anxious, not hyper, not loud, not quiet, and not sad. *Id.*, p. 41, LL. 14-17. Donelson explained that nothing about Munroe struck him as out of the ordinary the morning of September 29th. *Id.*, p. 43, LL. 18-23.

Further, VICON footage taken the morning of September 29, 2008, shows Munroe leaving the safety cell, walking toward the fingerprinting machine, and using the telephone. This footage appears to corroborate the description of Munroe's demeanor given by Johnson and Donelson.

Perhaps most egregious is Hoagland's attempt to diagnose Munroe based on the unadmitted audio telephone recordings between Munroe and his girlfriend made the morning of September 29, 2008.[11] Response Brief, pp. 14-15. With all due respect to Hoagland and her counsel, they certainly are not qualified to give any clinical assessment of Munroe's mental state.[12]

Since Hoagland simply offers conclusory statements and an incomplete version of the facts, she has failed to present any persuasive argument that Johnson should be denied qualified immunity, or summary judgment on the merits.

D. The Remedies Applicable in This Case Are Not Well Settled, and Punitive Damages Should Not Be Allowed.

The Court has allowed Hoagland's lawsuit to survive based upon *Rhyne v. Henderson County*, 973 F.2d 386 (5th Cir. 1992). *Rhyne* determined that Texas law allowed the mother of a

[11] Concurrently herewith, Johnson has filed a Motion to Strike that portion of Hoagland's Response Brief concerning the audio recordings.

[12] Noteworthy, Dr. Leslie Lundt and Brian Mecham both offer their professional opinions regarding Munroe and the phone calls. *See* Affs. of Lundt and Mecham.

deceased jail inmate to bring a § 1983 action for *her* injuries after her son repeatedly threatened, attempted, then committed suicide in a county jail. *Id.*

Since this Court created a new § 1983 federal wrongful death claim under Idaho law for a parent of an adult child, standards of proof and damages are unclear. In 1992, when *Rhyne* was decided, the federal circuits were split as to whether a parent could sue for the death of an adult child. Today, eighteen (18) years later, almost every federal circuit prohibits a parent from bringing § 1983 cases for the loss of an adult child *unless* the "state action at issue was . . . aimed at specifically interfering with the relationship." *Rentz v. Spokane County*, 438 F. Supp. 2d 1252, 1263 (2006), *citing Russ v. Watts*, 414 F.3d 783, 787 (7th Cir. 2005).

Another complicating factor regarding the damages analysis concerns the case upon which *Rhyne* relied, *Brazier v. Cherry*, 293 F.2d 401 (5th Cir. 1961), which was decided fifty (50) years ago. *Brazier's* foundation was Georgia's survivability statute.[13] *Brazier* "held that § 1983 incorporated *Georgia's* wrongful death and survival statute *remedies* under § 1983." *Rhyne*, 973 F.2d 386, 390 (emphasis added). *Rhyne* also quoted approvingly from *Grandstaff v. City of Borger*, 767 F.2d 161 (5th Cir. 1985), stating, "we look to *Texas law* for guidance for the *damages recoverable* for [plaintiff's son's] death." *Id.* at 390 and 391 (emphasis added).

Rhyne therefore instructed courts allowing a § 1983 case to survive based on a state wrongful death action to look to *state law* for damages. In Idaho, that leads a court to I.C. § 5-311, our state wrongful death statute. It is difficult to generalize what is allowable since damages in wrongful death actions are fact-dependant. It is clear, though, that grief and anguish are specifically not recoverable. *See Hepp v. Ader,* 64 Idaho 240, 130 P.2d 859 (1942). Further,

[13] This is the same type of statute which, under Idaho law, was the basis for the Estate's dismissal.

mental suffering damages cannot be sought. *See Wyland v. Twin Falls Canal Co.* 48 Idaho 789, 285 P.2d 676 (1930).

Because this lawsuit is against a County employee, damages under I.C. § 5-311 could necessarily be subject to a heightened standard of proof pursuant to I.C. § 6-904A, B or C, and the damages cap found in I.C. § 6-924 would apply.[14] Furthermore, I.C. § 6-918 would preclude punitive damages.

As previously argued, even if this Court finds that punitive damages are not automatically precluded, the facts in this case do not rise to the high level of proof necessary for a punitive damages award. The standard set by the United States Supreme Court in *Smith v. Wade*, 461 U.S. 30 (1983) is purposefully high:[15]

> We hold that a jury may be permitted to assess punitive damages in an action under § 1983 when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others.

Id., at 56.

The Court explained the basis for this high standard:

> Punitive damages are awarded in the jury's discretion "to punish [the defendant] for his outrageous conduct and to deter him and others like him from similar conduct in the future." Restatement (Second) of Torts § 908(1) (1977). The focus is on the character of the tortfesor's conduct-whether it is of the sort that calls for deterrence and punishment over and above that provided by compensatory awards.

Id. at 54.

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[14] While state remedies may be her measure of damages, Hoagland may be precluded from the same as she failed to properly comply with the Idaho Tort Claims Act. Those arguments were raised by the Defendants in earlier briefing.

[15] Contrary to Hoagland's assertions, Johnson's arguments do not challenge the holding in *Smith v. Wade*. Rather, his arguments are supported by the Supreme Court's holding in that case. In support of her assertion, Hoagland actually cites to the *dissent* in *Wade v. Smith*. *See* Response Brief, p. 17, ns. 8 and 9.

Later, in *Kolstad v. American Dental Association,* 527 U.S. 526 (1999), the Supreme Court defined the terms "malice" and "reckless indifference" it used in *Smith v. Wade*. The Supreme Court stated:

> Most often, however, eligibility for punitive awards is characterized in terms of a defendant's motive or intent. Indeed, "[t]he justification of exemplary damages lies in the evil intent of the defendant." 1 Sedgwick, *supra*, at 526; *see also* 2 J. Sutherland, Law of Damages § 390, p. 1079 (3d ed.1903) (discussing punitive damages under rubric of "[c]ompensation for wrongs done with bad motive"). Accordingly, "a positive element of conscious wrongdoing is always required."

Id. at 538 (citations omitted).

There is no proof of "conscious wrongdoing" on the part of Johnson, nor has Hoagland forwarded any facts supporting a need for "deterrence and punishment." Quite the opposite, Johnson was deeply affected by Munroe's death, both as a person and as a professional, describing it as "traumatic, devastating, sad." Morgan Aff. (filed Feb. 11, 2011), Ex. F (Johnson Dep.), p. 21, LL. 9-24; p. 24, LL. 5-8. Hoagland's case continues to be a disagreement with Johnson's clinical decision. Her case still does not rise to the necessary standard to sustain a

§ 1983 case, much less one involving a request for punitive damages.[16] Hoagland's punitive damage prayer should therefore be dismissed.

II. CONCLUSION

Based on the uncontroverted record before this Court, and the arguments made by Defendants, Johnson is entitled to qualified immunity. Summary judgment in favor of Johnson on the merits of the case is also warranted. Hoagland offers no valid argument that would require a different result. As such, Johnson respectfully requests that his Motion for

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[16] Hoagland cites to several cases in footnotes on pages 16 and 17 of her Response Brief. These cases, however, do not stand for what Hoagland alleges:

- Footnote 3. Hoagland actually cites to the dissent in *Smith v. Wade*, 461 U.S. 30 (1983).
- Footnotes 4-6. These cases do not support Hoagland's position. Rather, they support a position that state statutes should not be imported into § 1983 cases. This undercuts the very theory under which her lawsuit proceeds.
- Footnote 7. *Sawyer v. Klaar*, 115 Idaho 332 (Ct.App. 1988), does not support Hoagland's position on damages. She also cites *Berry v. City of Muskogee*, 900 F.2d 1489 (10th Cir. 1990), a § 1983 case brought on behalf of a deceased inmate by his wife and children where the damages are based on a very different theory - a state survivability statute - the same Idaho law the precluded the Estate's § 1983 case. Interestingly, in that case, the Court found that a state wrongful death statute is actually a survivability statute, undercutting the very basis of Hoagland's lawsuit. *Braillard v. Maricopa County*, 232 P.3d 1263, is a 2010 case where the Arizona Court of Appeals agreed that modern § 1983 law no longer allows lawsuits such as Hoagland's. The Court suggests the plaintiff file a state wrongful death action. Hoagland's citations to *Bass by Lewis v. Wallenstein*, 769 F.2d 1173 (1985), *Andrews v. Neer*, 253 F.2d 1052 (8th Cir. 2001), *Garcia v. Whitehead*, 961 F.Supp. 230 (C.D.Cal. 1997), *Guyton v. Phillips*, 532 F.Supp. 1154 (N.D.Cal. 1981), *Gotbaum v. City of Phoenix*, 617 F.Supp.2d 878 (D.Ariz. 2008) underscore Hoagland's continued misunderstanding of the theory under which her case has been pursued. Her case is neither a suit by Munroe nor his estate. What damages a *decedent* could recover is irrelevant to Hoagland's claim. *Gotbaum* further undermines Hoagland's case, intimating (as Johnson argues) that "some courts have suggested that such a claim is not available to family members of the decedent because section 1983 establishes liability 'to the party injured.'" 617 F.Supp.2d 878, at FN 3.
- Footnotes 8 and 9. Hoagland again cites to the dissenting opinion in *Smith v. Wade*.
- Footnote 10. Hoagland cites to *Estelle* and *Brennan*, ostensibly forwarding the deliberate indifference standard is applicable in the case at bar. However, in *Estelle* and *Brennan* the plaintiffs were the *inmates*. Here, Hoagland sues for *her* injuries, not those of her son.

Reconsideration be granted, and that this Court grant him qualified immunity and summary judgment as to all of Hoagland's claims.

DATED this 4th day of March 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
Sherry A. Morgan
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing DEFENDANTS' REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION PURSUANT TO I.R.C.P. 11(A)(2)(B) to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
1673 W. Shoreline Drive, Suite 200
P.O. Box 7808
Boise, ID 83707-7808

____ Hand Delivery
__X__ U.S. Mail
____ Certified Mail
____ Facsimile (208) 489-8988

_____

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Senior Deputy Prosecuting Attorney
RAY J. CHACKO
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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **AFFIDAVIT OF COUNSEL IN SUPPORT OF DEFENDANTS' REPLY MEMORANDUM**

STATE OF IDAHO)
) ss.
County of Ada)

SHERRY A. MORGAN being first duly sworn upon oath, states as follows:

1. That your Affiant is a counsel of record for Ada County Defendants in the above-entitled matter.

2. That on Tuesday, November 16, 2010, at approximately 10:42 a.m., the deposition of Jeremy Wroblewski was taken in this matter.

3. That attached to your Affiant's Affidavit as Exhibit A is true and correct copy of the transcript of Jeremy Wroblewski's deposition.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Sherry A. Morgan
Senior Deputy Prosecuting Attorney

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN to before me this 4th day of March 2011.

Notary Public for Idaho
Commission Expires 5/20/2016

MONICA M. DEVROUDE NOTARY PUBLIC STATE OF IDAHO

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing AFFIDAVIT OF COUNSEL IN SUPPORT OF DEFENDANTS' REPLY MEMORANDUM to the following persons by the following method:

Darwin L. Overson
Eric B. Swartz
Jones & Swartz, PLLC
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P.O. Box 7808
Boise, ID 83707-7808

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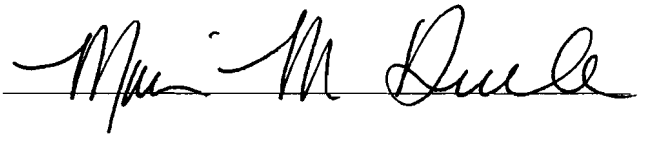


EXHIBIT A

JEREMY WROBLEWSKI DEPOSITION TRANSCRIPT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and	)	COPY
in her capacity as Personal	)	
Representative of the ESTATE OF	)	Case No.
BRADLEY MUNROE,	)	CV-OC-2009-01461
Plaintiffs,	)	
vs.	)	
ADA COUNTY, a political	)	
subdivision of the State of	)	
Idaho; et al.,	)	
Defendants.	)	
_____	)	

DEPOSITION OF JEREMY WROBLEWSKI

NOVEMBER 16, 2010

REPORTED BY:

MARIA D. GLODOWSKI, CSR No. 725, RPR

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and)
in her capacity as Personal)
Representative of the ESTATE OF) Case No.
BRADLEY MUNROE,) CV-OC-2009-01461
Plaintiffs,)
vs.)
ADA COUNTY, a political)
subdivision of the State of)
Idaho; et al.,)
Defendants.)
_____)

DEPOSITION OF JEREMY WROBLEWSKI
NOVEMBER 16, 2010

REPORTED BY:
MARIA D. GLODOWSKI, CSR No. 725, RPR
Notary Public

THE DEPOSITION OF JEREMY WROBLEWSKI, was taken on behalf of the Plaintiffs at the offices of Jones & Swartz, PLLC, 1673 West Shoreline Drive, Suite 200, Boise, Idaho, commencing at 10:42 a.m. on Tuesday, November 16, 2010, before Maria D. Glodowski, Certified Shorthand Reporter and Notary Public within and for the State of Idaho, in the above-entitled matter.

APPEARANCES:

For Plaintiffs: Jones & Swartz, PLLC
BY: Darwin L. Overson
1673 West Shoreline Drive
Suite 200
Boise, Idaho 83707-7808

For Defendant: Ada County Prosecutor's Office
BY: James K. Dickinson
Sherry A. Morgan
200 West Front Street
Room 3191
Boise, Idaho 83702

APPEARANCES (continued):

For Defendants: Ada County Sheriff's Office
BY: Joseph D. Mallet
7200 Barrister Drive
Boise, Idaho 83704

INDEX

JEREMY WROBLEWSKI,
first duly sworn to tell the truth relating to said cause, testified as follows:

EXAMINATION
BY MR. OVERSON:

Q. Your name is Jeremy Wroblewski?
A. Yes, sir.
Q. You are here for a deposition today, and there are some kind of basic rules. Have you ever had your deposition taken before?
A. No.
Q. Okay. Kind of just preliminarily, let's talk about that just to make things kind of go smoother. We've got a court reporter here. She's taking a record of everything that's said. So one of the things that's kind of a natural propensity for people is to answer questions by nodding or shaking their head.
A. Okay.
Q. It's difficult for her to get that on the record. So we'll try to ask you to answer verbally a yes, no -- or obviously if there's more explanation -- rather than shaking your head or nodding.

The other thing that there's a natural propensity to do is to talk over the top of each other. It makes it very difficult for her to record voices that are going on simultaneously. So if you'll let me finish my question before you start your answer, that's going to help the court reporter a lot.
A. Okay.
Q. Okay? The other thing that is, you got counsel here today, and from time to time he'll probably want to put an objection on the record, and so there's a little time frame here that if you give that to him, I'm sure he'd appreciate that. Don't be confused by the objection. Your attorney will let you know whether or not to go ahead and answer those questions. Okay?
A. Okay.
Q. All right. Are you currently employed with Ada County Jail?
A. Yes.
Q. And what is your status there?
A. As a deputy.
Q. As a deputy?
A. Yes, sir.
Q. Has that changed since September of 2008?

A. No.
Q. No. At that time, you were a commissioned deputy?
A. Yes.
Q. What does that mean, commissioned?
A. Commissioned deputy means you're acting as -- I guess like an extension of the sheriff. You work as a law enforcement capacity.
Q. Okay. At the time of September '08, how long had you been working at the jail?
A. A few months. I -- I don't remember the exact time, but a few months, I'd say.
Q. That's fine, a couple of months.
A. Yeah.
Q. And what did you do before that?
A. I was a corrections officer out at IMSI for Idaho Department of Correction.
Q. And how long did you do that?
A. Two years.
Q. Two years?
A. Yes.
Q. Were you charged with the task of performing suicide screening out there?
A. No. I had training of what to look for, just different visual signs, and the demeanor of

people while I was out at the maximum security prison.
Q. Okay. And that was part of your training out there --
A. Yes.
Q. -- suicide risk reduction training?
A. Yes.
Q. And do you know how many times you were trained in that area when you worked out there?
A. I don't.
Q. But at least once?
A. Yes.
Q. Maybe more?
A. Yes.
Q. Okay. And what was your occupation before that?
A. I was in -- and still am -- in the Army Reserves. I was in Iraq for 18 months before I started working at IMSI.
Q. And what did you do?
A. Logistics. My job was basically to plan routes for convoys and movement of soldiers throughout Iraq, track IED strikes, and then act as a -- kind of like a dispatcher. When they ran into trouble or came under attack, they would call us up

and we would dispatch a force of helicopters or another unit to go help them out.
Q. Got you. And, I'm sorry, you're still in the military?
A. Yes, sir.
Q. Oh, I forgot to ask you this question. Is there any reason at all that you wouldn't be able to answer questions and proceed in this deposition today?
A. No, sir.
Q. Any medications today?
A. No, sir.
Q. Okay. Did you go through POST?
A. Yes, sir.
Q. When did you do that?
A. I -- I don't know the exact dates --
Q. Approximately.
A. -- off the top of my head.
Q. Let me ask it this way. Was it before you worked at the prison?
A. Yes.
Q. Okay.
A. Well, I went -- I went to POST for -- before I worked at the prison, I also went to POST when I got hired on through Ada County. There's two

different POST academies you have to attend.
Q. Okay. The first one, did it involve training for suicide risk reduction?
A. I don't remember. Yes, I'm sure it did, but I don't remember.
Q. Okay. And what about when you did POST for the jail?
A. Yes.
Q. It did?
A. Yes.
Q. Okay. What are some of the things they taught you to look for?
A. Just some of the warning signs that people display, quiet, withdrawn. Those are -- stuff like that.
Q. Anything else?
A. Just their demeanor by talking to them. Just asking them questions, are you going to harm yourself? Anything like that.
Q. Do you remember anything else that you look for?
A. I do not.
Q. You were, in September of '08 on the 29th -- and I'll represent to you that's the date that you booked Bradley Munroe.

A. Uh-huh.
Q. -- you were working in booking. Was that something you did frequently?
A. No. It -- it was my last week of on-the-job training.
Q. It was your last week of on-the-job training. So you were being supervised by somebody else as you were doing --
A. Yes.
Q. -- booking?
A. Yes.
Q. Who were you being supervised by?
A. My trainer was Deputy Lawson?
Q. Deputy Lawson?
A. Yes, sir.
Q. Was he in the room when you were fingerprinting Bradley Munroe?
A. I don't remember.
Q. Okay. Was he in the room helping you with the questionnaire, the suicide screening?
A. I don't know if he was in -- in the room, but he was available if I had any questions for him.
Q. Okay. And you didn't have any questions for him that day?
A. I -- I'm sure I did. I don't remember.

Q. Okay.
(Deposition Exhibit No. A was marked for identification.)
Q. (BY MR. OVERSON) Before we get into this. In September -- on September 29, '08, who was your immediate supervisor?
A. It would have been -- it would have been my trainer, Deputy Lawson, and then his supervisor was -- I don't remember, but I want to say Sergeant Grunewald would have been.
Q. Grunewald?
A. Yes, sir.
Q. And then help me out with the chain of command there. From Sergeant Grunewald, who would b next up the chain?
A. One of the lieutenants. I don't remember who the lieutenant was at the time.
Q. And then after the lieutenant level, would it be --
A. It would be the captain.
Q. Linda Scown?
A. Yes.
Q. Okay. Okay. You've been handed a document. Have you seen that document before?
A. Yes.

Q. It's labeled Exhibit A. Can you tell us what that is?
A. It's a record of my training as of May 10, 2010, the training I've received through the jail and through the police academy or POST.
Q. So you see up there the initial classification and suicide risk reduction?
A. Yes.
Q. That was the training that took place in May of this year, 2010?
A. Yes.
Q. Where was that?
A. That was in the jail on -- we get training topics that are sent to us via email with a link, you click on the link, and then they have like a computer training that you have to do. You have to read through all the slides and then answer questions and then take a test at the end.
Q. Okay. And that's what you did on that day?
A. Yes.
Q. Was that the first time you'd taken a class like that?
A. No.
Q. It was at the jail, though, while you were

employed at the jail, that was the first time?
A. No.
Q. I mean, specifically with regard to suicide risk reduction?
A. Yes.
Q. Okay. Was that the first time you'd taken a class like that ever for suicide risk reduction?
A. On the computer?
Q. Yeah. Have you ever been tested on it?
A. I don't recall. Part of our training is we have a bunch of CDs we have to go through.
Q. With information on it?
A. Yes.
Q. When you started at the jail, were you required to review the jail's policies?
A. Yes. We went over it in the training before we started POST, and then some of the stuff that our trainers went through with us as well.
Q. And that would include the portions and policies of -- or the portion of the policies dealing with suicide screening --
A. Yes.
Q. -- intake?
A. Yes.
Q. Did you attend a seminar on suicide

assessment and risk reduction conducted by a gentleman by the name of Lindsey Hughes?
A. I -- I don't -- I don't remember --
Q. Okay.
A. -- if I did or not. If it was part of the POST Academy training, then, yes.
Q. It would have been at the jail while you were working at the jail in an auditorium setting?
A. I -- I -- I don't remember.
Q. So since September 2008 -- is this the only initial classification and suicide risk reduction training that you've had since September 2008?
A. Yes. But before then I had a break in service. I was in Afghanistan for 14 months.
Q. Okay. I apologize if I asked this question already. But on September 29, 2008, when you were doing the initial screening intake booking of Bradley Munroe, you'd reviewed the Ada County policies governing the suicide risk assessment and -- or intake screening suicide?
A. Yes.
Q. Okay. And you were familiar with those?
A. Yes.
Q. In performing your job, would you say that

you're pretty careful?
A. Yes.
Q. Very detail oriented?
A. Yes.
Q. And you've always pretty much been that way?
A. Yes.
Q. Kind of your nature?
A. Yes.
Q. That works pretty well for you in the military, doesn't it?
A. Yes, it does.
Q. And would you say that you're at least as careful as the other deputies you work with?
MR. DICKINSON: Objection, foundation, speculation, but you can answer.
MR. OVERSON: And I'm asking based on your experience and observations.
THE WITNESS: I believe so, yes.
Q. (BY MR. OVERSON) Maybe a little more careful and detailed than some of the other people that you work for?
MR. DICKINSON: Same objection, but you can answer.
THE WITNESS: I -- I -- I can't say.

MR. OVERSON: Okay.
THE WITNESS: That's them and --
MR. OVERSON: I understand.
(Deposition Exhibit No. B was marked for identification.)
Q. (BY MR. OVERSON) Go ahead and take a second and review that document marked Exhibit B and let us know if you recognize that?
A. I do.
Q. And what is it?
A. It's the report I wrote after I came in to work the following morning and found out what happened.
Q. Was that morning of the -- well, let's see. This is dated October 1 of '08. That was the morning you learned of the suicide of Bradley Munroe?
A. Yes.
Q. Okay. Who asked you to write this?
A. I -- I knew I had to write a report of what happened 'cause I interacted with him. I asked my trainer, Deputy Lawson, at the time and he told me, yeah, I needed to write a report.
Q. Is this your incident report? Is that --
A. Yes.
Q. -- what you refer to it as? Okay. And

you recorded in this quite a few details about your interaction with Mr. Munroe. Did you reference any materials in preparing this report, or was this something you were able to prepare off memory?
A. I -- I did reference the video footage of my interactions with him, the Viacom footage for the specific times.
Q. You watched a video of yourself interacting with Mr. Munroe?
A. Yes.
Q. In that video, was -- Mr. Munroe visible in the video?
A. Yes.
Q. And you were visible in the video?
A. Yes.
Q. And Mr. Jim Johnson, the social worker, he was visible in the video?
A. Yes.
Q. Was there audio?
A. No.
Q. You couldn't hear anything?
A. No.
Q. Just see it?
A. Yes.
Q. And there was a time -- or a clock at the

bottom of that video so you could log -- or you can record the time frame that things took place?
A. Yes. There's a date time stamp.
MR. OVERSON: Okay. Counsel, I don't think we have that video.
MS. MORGAN: I think you do. Do you want to go off the record for a minute?
MR. OVERSON: Yeah, let's do.
(Off-the-record discussion.)
Q. (BY MR. OVERSON) I'd asked you some questions about a video that you reviewed in preparing this statement, Exhibit B. Was that a video of you physically fingerprinting Bradley Munroe?
A. Yes. Taking -- taking him to the Livescan machine.
Q. And is there video of you actually using the Livescan machine and fingerprinting Mr. Munroe?
A. Yes.
MR. OVERSON: Okay. I assume that you'll check the records and find that video for us?
MR. DICKINSON: Well, we don't know that there is a video of that.
MS. MORGAN: We've never seen that.
MR. DICKINSON: We can show him what we

have and see if that's what he was watching. I don't know if his recollection is as accurate as you want to think it is right now.
MR. OVERSON: Well, I'm not the one that thinks it is. He's testified that he saw --
MR. DICKINSON: Well, you may be leading him on, Darwin, but we'll see. We'll see. We don't know if one that describes --
MR. OVERSON: But if one exists, you'll produce it?
MR. DICKINSON: Absolutely.
MS. MORGAN: Of course.
MR. DICKINSON: We can tell you we have never seen --
MR. OVERSON: I believe you, Jim.
MR. DICKINSON: -- anything that would show that. And I don't want to taint him, so that's why I'm being --
MR. OVERSON: Yeah. Okay.
MR. DICKINSON: If it exists, we will get it to you, absolutely.
Q. (BY MR. OVERSON) Okay. The video you observed in order to get the time frames for making your statement, Exhibit B, do you remember seeing Ji Johnson in that video?

A. I -- I believe so, yes.
Q. Yeah. Do you have a recollection of how far away he was standing when he was talking to Mr. Munroe as you were fingerprinting him?
A. I -- I -- I vividly remember without the video that he was -- he was standing pretty close to and talking to him and was like us three, within this proximity right here.
Q. So you could hear Mr. Johnson and you could hear Mr. Munroe --
A. Yes.
Q. -- as they were speaking?
A. Yes.
Q. And that's -- you've got a pretty vivid memory of that?
A. Yes.
Q. Okay. What about, do you have a vivid memory of the video that you watched?
A. Somewhat. I know that's how I got the times --
Q. Okay.
A. -- on -- in my incident report is from viewing the video.
Q. Okay. And you remember seeing yourself fingerprinting Mr. Munroe on the Livescan machine?

A. I -- I believe so, yes.
Q. Okay. Where did you obtain that video?
A. You can upload it from any one of the computers. You can go back and --
Q. So all the jail stuff, security staff has access to that on the computer?
A. Yes.
Q. Okay. And you can download it onto like a disk or something?
A. Yes.
Q. And attach that to your report or whatever?
A. Yes.
Q. So it doesn't necessarily have to be something that you watch on the computer and videotape it with a separate camera?
A. I don't understand the question.
Q. Like if you had a computer screen up, it wouldn't be necessary to have a video camera filming the video screen, you could just simply download the video and then you'd have a copy of it on disk?
A. Yes.
Q. Okay. Do you know how long those videos are available?
A. I do not.

Q. Have you ever had to go back and -- other than this incident, have you ever had to go back and pull a video?
A. Not more than a few hours, no.
Q. I'm sorry?
A. Not more than a few hours. I've never had to go back and pull like days before or anything like that.
Q. So you've never been in a situation where something happened maybe a week prior or two, three weeks and then you had to go back and download the video?
A. No.
Q. Okay. Do you have a pretty vivid recollection of your interactions with Mr. Munroe?
A. Somewhat, yes.
Q. And pretty solid recollection of Jim Johnson's conversation with him?
A. Just a few terms that he said.
Q. Okay. All right. Let me -- I'm a little confused.
(Deposition Exhibit No. C was marked for identification.)
Q. (BY MR. OVERSON) You've been handed Exhibit C. I don't know if you've ever seen that

before. It's two pages. The first page has been represented to us as being a map -- blueprint of the first floor of the jail.
MR. OVERSON: Is that a fair representation, Counsel?
MR. DICKINSON: I think so, yes.
Q. (BY MR. OVERSON) And then the second sheet is the -- more specifically, I guess, it's unit seven and eight -- I believe it's just seven.
A. It's seven and eight, sir.
Q. Okay. Thank you. On the first page there, do you mind showing me where it is that you were fingerprinting Mr. Munroe? I know it's small.
A. It would have been in this general area right in here.
Q. Okay. Here, if you would take the pen and kind of follow the lines of the walls where that would have taken place.
A. Do you want me to outline it in blue?
Q. Yeah. Okay. And where is -- where are you standing with Mr. Munroe as you're fingerprinting him?
A. From -- from the map, I -- I believe it's right there. I -- I can't be one hundred percent certain, but it's in that general area.

Q. Okay. So you put a small star next to that little kind of a --
A. That --
Q. -- a wood table?
A. There's another little office right there. That's why I think that's where that would be.
Q. Okay. And to the best of your recollection, where was Mr. Jim Johnson standing?
A. I -- I believe right there, but I can't be a hundred percent certain.
Q. Okay. Is there a window or a half window or something like that in that area?
A. There's a -- there's a room right here that has a little half area, if that's where I think that it is.
Q. Would the Livescan be inside that room?
A. No, sir, it's right on the other side of the wall right here. There's a -- like the booking desk would be right there where I just drew that line.
Q. I got you. Okay. And then, do you know where Health Services is on that map, on that blueprint?
A. This offshoot right here.
Q. Can you just put a big circle around that?

Okay. All right. I think I need my pen back. Sorry.
A. Oh, sorry.
Q. That's all right. Just so I understand. You came in to work on October 1 of '08, learned that Mr. Munroe had taken his own life while in custody, and you wrote this report. Did you make any other writings, like notes or anything like that, in preparing this?
A. No.
Q. Okay. You just sat down at the computer and wrote this out?
A. Yes.
Q. And who did you give this to?
A. I let my trainee read over it, and then I -- I gave it to Sergeant Grunewald.
Q. Did you include any statements that anybody told you to take out?
A. No.
Q. Any changes at all made at the suggestion of anybody?
A. Just spelling corrections.
Q. Okay. Fair enough. Why don't you take a minute and go ahead and read through that.
A. My report?

Q. Yeah. Anything in that writing that's not true?
A. No.
Q. It's all true?
A. Yes.
Q. After you'd fingerprinted Mr. Munroe, you'd taken and put him in a waiting room of some sort?
A. It's just a main lobby that's out in view in front of all the jail staff. It's not a cell.
Q. Okay. And then is that where phones are accessible?
A. Yes.
Q. Is that the first time Mr. Munroe would have had access to a telephone, or to your knowledge?
A. I -- I can't say. I -- I don't know. I wasn't there when he was brought in to the jail.
Q. Do you remember when you started your shift that day?
A. I do.
Q. What time?
A. I would have gotten there at 6:30, had briefing at 6:48, and then started at 07.
Q. Where was Mr. Munroe when you took him -- took custody of him for the purposes of starting to

process him?
A. I -- to the best of my knowledge, I don't recall, but I believe he was in one of the holding cells.
Q. Okay. So while he was with you, okay -- I know you testified you don't know what happened before you took him out of that cell. But when would the first time -- from the time you take him out of the cell, when would be the first time he'd have access to a telephone?
A. After I finish the fingerprint process.
Q. Okay.
A. Unless he was -- and if not before.
Q. And then before you start the medical interview?
A. Yes.
Q. Okay. Where did you conduct the medical interview?
A. Right -- if I show you on my map, if -- this, where I said the fingerprint machine was.
Q. Let's see if we can get this -- well, that's okay.
A. You know where I put my little X where I said the fingerprint?
Q. Yeah.

A. It would have been in this room right there.
Q. Okay. And is there video of that?
A. I don't believe so. I don't know.
Q. You don't know if there's a camera in that room?
A. No.
Q. Okay. Again, I need my pen.
A. Oh, sorry.
Q. Do you mind maybe putting a -- even just a dot -- well, yeah, a dot where that -- yeah, right there. Just so we can remember where -- all right.
This Livescan machine, I understood that as being a machine -- some kind of electronic machine that records the fingerprints of the inmate?
A. Yes.
Q. About how long does it take to perform fingerprint of an inmate?
A. It depends on the deputy. Some people can do it very quickly.
Q. Were you able to do it pretty quickly?
A. No. I was new to using the machine, so I had to take my time.
Q. Okay. You're pretty thorough in that statement, Exhibit B. One thing I did notice,

though, is it didn't indicate who contacted Jim Johnson. Was that you?
A. No, it was Deputy Lawson, I believe.
Q. So how did you know it was the department phone by which he'd been contacted?
A. Because it was one of the booking phones, one of the phones in the booking area.
Q. So was that like an assumption on your part, 'cause that would have been a phone that somebody would have used or --
A. That would have been a phone that somebody would have used.
Q. Okay. All right. Were you present when Mr. Lawson made the phone call and asked for somebody to come over?
A. I -- I don't remember.
Q. Do you know what time that took place?
A. I do not.
Q. How did you learn that a phone call had been made?
A. I asked Deputy Lawson before. 'Cause I -- I -- I do remember talking to him about it.
Q. You remember having a conversation with him?
A. Yes.

Q. And what did you say?
A. I don't remember the exact conversation, but I do remember that we discussed it before.
Q. The need to have somebody from Health Services come over?
A. Yes.
Q. Do you remember generally what was said?
A. I -- I -- I do not.
Q. And that would -- what about Lawson, do you remember anything he said?
A. I don't.
Q. And you wrote in that statement that at 801 hour social worker Johnson entered the booking unit to speak with Munroe, right?
A. Yes.
Q. And that's true?
A. Yes.
Q. And you were fingerprinting Bradley -- you'd already started the fingerprinting process with Bradley when Mr. Johnson arrived?
A. Yes.
Q. Did you stop the fingerprinting process while Mr. Johnson spoke with Bradley?
A. I -- I believe so, yes.
Q. You did?

A. I believe so.
Q. On September 28 -- or September 29, 2008, I know that was your last day, right, of being in on-the-job training?
A. September 28th?
Q. 29th.
A. 29th.
Q. That shift.
A. I -- I -- I don't recall. I know it was my last week.
Q. Okay. Your last week.
A. But I don't know if it was my last day per se of on-the-job training. I don't remember.
Q. If an inmate was cooperative, how long would it take you to do the Livescan fingerprinting?
A. I -- I don't know an exact time. Again, it depends on the deputy.
Q. Well, I'm talking about you.
A. It would -- it would have taken me, I don't know -- I don't know an exact time. I can't --
Q. Estimate. Ten minutes?
A. Sure, ten minutes.
Q. Okay. Did you speak with Mr. Munroe while you were fingerprinting him?
A. Yes, I was -- I was talking to him.

Q. Giving him instructions as to the fingerprinting process?
A. Yes.
Q. What about talk to him about anything else?
A. I -- I don't believe so. I -- I don't recall. But I know when I fingerprint somebody, I -- I tell them what I'm doing.
Q. Okay. Are you the kind of person that engage in chitchat with the inmates, or would you just tell them what you need to get done and get out of there?
A. I would --
MR. DICKINSON: I'm going to object to relevance, foundation, but go ahead.
THE WITNESS: I would try to chitchat with them. Sometimes people don't talk.
Q. (BY MR. OVERSON) And what about Munroe, was he willing to chitchat with you?
A. I don't remember.
Q. Do you remember his demeanor?
A. He -- he seemed mad. But everybody seems mad when they're in jail.
Q. Tell me what you remember of the conversation between Mr. Johnson and Mr. Munroe.

MR. DICKINSON: Object, hearsay, but you can tell him.
THE WITNESS: I -- I just -- I remember him asking him questions. I don't really recall the questions. I know they were about his mental health status and stuff like that, how he was feeling.
And I do remember that Mr. Munroe didn't really want to answer him and he told him, I don't want your help. And then Jim Johnson said, okay, I'll respect your wishes. That's what I remember.
Q. (BY MR. OVERSON) The day after when you made this report, you watched that video, did you have a pretty good recollection at that point in time of what was said?
A. Yes.
Q. And that's what you've recorded here?
A. Yes.
Q. And it's pretty thorough in terms of what was said?
A. Yes.
Q. Is that why you put quotes around a lot of the statements?
A. Yes, those are what the people -- the two individual's conversating, that's what they said.
Q. Okay. Or at least it was pretty darn close?

A. Yes.
Q. And you remember more then you do now of that conversation?
A. Yes.
Q. Jim Johnson asked Bradley point-blank if he was suicidal?
MR. DICKINSON: Object, hearsay, but go ahead, if you know.
THE WITNESS: Yes. If it's in my report, then, yes.
Q. (BY MR. OVERSON) He said, no, I don't have any thoughts right now, and that I don't want any of your help --
A. Yes.
Q. -- that's what Munroe said?
A. Yes.
Q. Okay. And that was in response to a question by Mr. Johnson to Mr. Munroe if he had any current suicidal thoughts?
A. Yes.
Q. Did Munroe say, I promise I won't kill myself, or hurt myself?
A. No.
MR. DICKINSON: Object, hearsay, if you

remember. I'm sorry.
THE WITNESS: Sorry.
MR. DICKINSON: That's okay.
Q. (BY MR. OVERSON) I'm sorry, the answer was no?
A. No, I don't believe so.
Q. If he had said that, you would have put it in your report, right?
A. Yeah. Yes.
Q. In general, you got a pretty good memory?
A. I like to think so, yes.
Q. That's necessary for your military job, isn't it?
A. Yes.
Q. And your job at the jail?
A. Yes.
Q. And also with your job that you had at the prison?
A. Yes.
Q. And it's important that when events take place, that you're able to document them --
A. Yes.
Q. -- accurately?
A. Yes.
Q. And report what people have said?

A. Yes.
Q. And what you said?
A. Yes.
Q. And you're good at it?
A. I -- I believe so, yes.
Q. Okay. Now, you watched that video -- let's see here -- you watched that video in order to get the time frames, correct?
A. Yes.
Q. And you started fingerprinting Mr. Munroe, let's see, at approximately 800 hours?
A. I -- I believe so, yes.
Q. The second line.
A. Yes.
Q. Okay. And then at approximately 801 hours, Mr. Johnson arrived and entered the booking unit to speak with Mr. Munroe?
A. Yes.
Q. And that's when he started conversing with Mr. Munroe about whether he had suicidal thoughts?
A. Yes.
Q. Okay. And then at 8:04 Mr. Johnson left. He said that he would respect Mr. Munroe's wishes and he left?
A. Yes.

Q. And then you finished at 8:05?
A. Yes.
Q. Okay. So from start to finish it took you five minutes to fingerprint Mr. Munroe on Livescan; that'd be accurate?
A. Yes.
Q. Okay. 'Cause it would have been longer if you would have recorded that, 'cause you were watching that video?
A. Yes.
Q. Okay. So you think a fair statement may be you didn't stop the fingerprinting process while that was -- that conversation was going on?
A. I -- I don't know. It could have been.
Q. Okay. I'm just trying to get a sense of how things happened. You would agree that probably more likely you continued doing the fingerprinting while he's talking to Johnson?
A. Probably more than likely.
Q. Based on your written statement?
A. Yes.
Q. Did Bradley follow the directions you were giving him with regard to the fingerprinting?
A. Yes.
Q. During that process, was he cooperative?

A. Yes.
Q. But he seemed angry?
A. He -- he -- he seemed -- he seemed annoyed.
Q. Did he seem annoyed with Mr. Johnson?
MR. DICKINSON: Object, speculation, foundation, but you can answer.
THE WITNESS: I -- I believe so. I mean, Mr. Johnson was talking to him and he said he was fine. He didn't want anybody's help.
Q. (BY MR. OVERSON) Did Mr. Munroe seem to be angry with you?
A. He just seemed to be angry.
Q. Just generally, not really directed at you?
A. Yes.
Q. And he was short with Mr. Johnson, though, he was -- when he was asked those questions, he came across as angry?
A. Yes.
Q. Did Mr. Johnson say anything else other than what you've got recorded here in this statement?
A. I don't -- I don't believe so. I don't recall.
Q. And Bradley didn't say -- Mr. Munroe, he

didn't say anything other than what you've got down here on this statement?
A. I don't believe so. I don't recall.
Q. After Mr. Johnson left the room, did Bradley say anything else to you? And I'm talking about before you take him in to do that medical interview.
A. No.
Q. What's the JICS office? Is that where you put the circle on --
A. That's the office where I would have sat him down and started asking him the questions.
Q. And that was at 8:26?
A. Yes.
(Deposition Exhibit No. D was marked for identification.)
Q. (BY MR. OVERSON) You've been handed Exhibit D. Go ahead and read through that and let us know if you recognize it?
A. Yes.
Q. And what is it?
A. It's the affidavit. It contains my report.
Q. It's a recount of the events of your interaction with Mr. Munroe?

A. Yes.
Q. Okay. And this was signed by you on May 26, 2010?
A. Yes.
Q. And everything in it is true?
A. Yes.
Q. So you take him in to JICS office and you started the questionnaire. And part of that has to do with suicide assessment or screening?
A. Yes.
Q. And you asked him if he was hearing voices?
A. Yes.
Q. And what did he say?
A. That he was.
Q. And that he was seeing things?
A. Yes. The shadow people.
Q. And you asked him what the shadow people tell him to do?
A. Yes.
Q. And he said run?
A. Yes.
Q. What was his demeanor at that point?
A. The same as it had been.
Q. Angry?

A. Yes.
Q. But he was communicating with you and answering the questions?
A. Yes.
Q. And he was, as far as you were concerned, cooperative --
A. Yes.
Q. -- in fulfilling that task?
A. Yes.
Q. And you asked whether he was thinking about suicide?
A. Yes, that's one of the questions.
Q. And he said, yes?
A. Yes. And then --
Q. And then you asked him had he thought about suicide?
A. Yes.
Q. And he said, yes?
A. Yes.
Q. And you'd asked him if he had previously attempted suicide, and he said, yes?
A. Yes.
Q. And in this paragraph 8 here, your last sentence, he then explained that he was thinking about suicide earlier, but not now.

A. Yes.
Q. Do you see that?
A. Yes.
Q. You'd agree that's a pretty important question, whether he's thinking about now, or whether it was in the past --
A. Yes.
Q. -- in determining whether or not he was at a risk for suicide?
A. Yes.
Q. And so his comment that he was thinking about it before, but not now, that would be important?
A. Yes.
Q. Okay.
(Deposition Exhibit No. E was marked for identification.)
Q. (BY MR. OVERSON) Do you recognize the document that's been marked Exhibit E?
A. I have seen it before.
Q. What is it?
A. It's a printout of the booking process, the questions -- or the information you would get.
Q. This is the information on the JICS relating to booking?

A. Or one of the other booking programs. I --
Q. Okay. But it's the record of Mr. Munroe's booking?
A. Yes.
Q. And it's kept in electronic form on a computer?
A. Yes.
Q. Okay. Turn to page 90, if you would.
A. Ninety. Oh, okay.
Q. You know what, let me just take you back to Exhibit B. It's your written statement that you made on October 1 of '08. At the last there you said, I finished -- it's on the second page. In the last sentence you say, I finished -- I'm sorry, second to last -- I finished the JICS process and added in the notes. Mr. Munroe was seen by medical staff and cleared. Were you referencing Mr. Johnson --
A. Yes.
Q. -- clearing him for suicide risk?
A. Yes, I was.
Q. Okay. And you'd taken Mr. Munroe back for the questionnaire in the JICS office at 8:26. And then you wrote here that you'd finished at 8:33.

Munroe exited the JICS office to be housed?
A. Yes.
Q. Okay. So this Exhibit E -- the pages are marked down there at the bottom, 90 and 91. Do you see that?
A. Yes.
Q. You were able to work through that, fill out that form between 8:26 and 8:33?
A. Yeah. It's -- like the questions are there. So it's just drop down boxes. You're just asking him questions.
Q. Yeah. That's what I mean. You were able to go through the process of asking him these questions and marking the boxes and completing that and having him out the door between 8:26 and 8:33?
A. Yes.
Q. Okay. All right. And as far as the process before you get started on this, do you review any of the other -- any other materials related to that inmate?
A. No. There's like a booking sheet that you would get that has some questions on it, but --
Q. Okay. Like name and address --
A. Yes.
Q. -- and that type of thing?

A. Yes.
Q. You know when the inmate comes in and you have to put them in one of the holding cells and then do checks, they come in, they look through a window, and make sure they're okay.
A. Uh-huh.
Q. Do you know what I'm talking about?
A. Yes.
Q. And they have a little log?
A. Yes.
Q. And everybody that looks in the window writes down what they saw?
A. Yes.
Q. When they saw it?
A. Yes.
Q. Okay. Did you look at the log for Mr. Munroe that day?
A. I had looked at it because I've written -- I had written on it.
Q. I'm sorry?
A. I had written on it.
Q. Oh, you had written on it?
A. Yes.
Q. You were one of the people who looked in on him?

A. Yes.
Q. What did you write on it, do you remember?
A. I can tell you 'cause I've seen it since then, the log.
Q. So if I got the log, you'd be able to --
A. I could point exactly to what I wrote.
Q. Okay. I can't remember if it's in this or not. If it's not, let's get it and have you take a look at it.
MR. OVERSON: Let's go off the record for a minute and I'll get a copy of that and we'll come back.
(Off the record.)
(Deposition Exhibit No. F was marked for identification.)
Q. (BY MR. OVERSON) Okay. We're back on the record here and you've been provided as an exhibit, F. If you would, you'd indicated that you had written on this document; is that right?
A. Yes.
Q. Okay. Can you identify those portions that you have written on?
A. It's on the second page, the sixth one from the top at 0702. My Ada number is 5118. And then I wrote breathing on the right -- he's breathing

on his right side.
Q. Okay. When you wrote that, did you look over this log to see what other deputies --
A. I had read it prior, yes, to --
Q. Okay.
A. -- figure out why he was in there, what he was doing.
Q. Okay. The entry on the first page -- correct me if I'm wrong, but that first entry says: He's lying on the bunk -- then it has an arrow -- and says, pee under door. Do you see that?
A. Yes.
Q. Okay. And then took underwear; is that right? Tell me what you see -- how you read those first three officer's entries.
A. I'm not sure I understand the question. What do you mean, how I read them?
Q. Well, you'd agree the handwriting is a little awkward, to say the least, right?
A. Yes.
Q. Okay. And you reviewed this document that night. And what I'm wondering is, how did you read it in terms of, what did you take away from those first three officer's comments?
A. That he was just being inappropriate. And

that's why he was in the holder.
Q. Okay. Did you take away that he had had his clothes removed from him?
A. Yes.
Q. Did you take away that he had wrapped -- let's see -- he is masturbating in the cell, right?
A. Yeah.
Q. And is vulgar and rude, right?
A. Yes.
Q. His clothing removed from him, right?
A. Yes.
Q. And he was trying to take string and wrap around his neck, right?
A. Yes.
Q. Apparently, looks like paramedics did see him on the scene?
A. Yes.
Q. Okay. So you were aware of that information when you were doing the medical screening?
A. I -- I -- I would have read it, yes.
Q. Okay. Did you talk to anybody else about Munroe, or did anybody tell you anything else about Munroe?
A. I -- I'm sure they did. I don't remember.

Usually when you're taking over for the next shift, the outgoing deputy will give you a brief of what's going on in there and what the person's doing inside the holder, and why they're in the holder, why people are where they're at.
Q. Okay. Did you understand that he'd been -- that Munroe had threatened suicide or said comments to the effect that he was thinking about committing suicide?
A. I -- I -- I don't recall. I don't know if they said that or not.
Q. Okay. But at some point, you became aware of that fact, because Johnson had been called to --
A. Yes.
Q. Let me finish the question. I'm sorry.
A. I'm sorry.
Q. No, that's okay. At some point, you had -- they had come -- at some point, you had learned that he had been making statements about suicide, because Jim Johnson had been called to come do the suicide assessment?
A. Yes.
MR. DICKINSON: Object, foundation.
THE WITNESS: I'm sorry.
MR. DICKINSON: That's fine.

Q. (BY MR. OVERSON) And you were there fo Jim Johnson as he went through that suicide assessment?
A. Yes.
MR. DICKINSON: Object, foundation, but go ahead. That's okay.
Q. (BY MR. OVERSON) Okay. Page 90 of this Exhibit E. You had made several visual observations and recorded them, correct?
A. Yes.
Q. You had observed that his physical condition at intake was poor, right?
A. Yes. This -- this --
Q. Yeah.
A. Never mind. I'm sorry.
Q. What were you going to say?
A. Well, I was -- I was just looking at the time right there. But that was --
Q. Oh.
A. -- that was just from the time he was brought in. I'm sorry.
Q. Yeah. I understand the confusion. This is a booking date and time, 9/28/2008, 2259. But this is information that you recorded on 9/29 after you'd gone through the fingerprinting process with

Mr. Munroe?
A. Okay.
Q. Is that right?
A. Yes.
Q. Okay. And you'd recorded that -- there under visual observation, you documented that Mr. Munroe's physical condition, according to your observation, was poor, right?
A. Yes. He seemed sick.
Q. Sick?
A. He had too much to drink. Hung over, I guess.
Q. Okay. And kind of beat up?
A. I -- I don't recall if he had any injuries or whatever on him.
Q. And so you marked that he appeared to be under the influence of alcohol or exhibit signs?
A. Yes.
Q. And you could smell alcohol on him?
A. Yes.
Q. And you're trained as an officer to know when somebody has the odor of alcohol on them?
A. Yes.
Q. You have experience with that?
A. (Nonverbal response.)

Q. Okay. And you'd marked that he'd been taken to the hospital prior to the intake. And then it says, if so, describe treatment, medications, et cetera, and you marked, yes, right?
A. Yes.
Q. But you didn't provide a description?
A. I was -- I was told that he was taken to the hospital.
Q. So you didn't have firsthand knowledge of that, is that why you didn't put a description of that?
A. Yes.
Q. Okay. The next question there, number eight, you'd marked, no. Does behavior suggest need for immediate psychiatric treatment, right?
A. Yes.
Q. As you're going through this form, say, you get almost done and then all of a sudden something happens. Are you able to go back and change a no to a yes?
A. I -- I -- I don't remember.
Q. You don't know how that works?
A. No. I -- I -- I really don't remember if you can go back or not 'cause you have to submit it.
Q. I mean, while you're doing it?

A. I -- I -- I don't -- I don't remember. To be real honest with you, the jail uses a different system now, and I don't work in booking very often.
Q. I got you. All right. There's a portion of the next section, questionnaire, and the question is, are you currently taking medication, and Bradley said, yes, right?
A. Yes.
Q. And he told you he was on Celexa?
A. Yes.
Q. And do you know what Celexa was?
A. I do not.
Q. You don't know what that is sitting here today?
A. I -- I have no idea.
Q. Okay. Did you ask him what he was taking medications for?
A. I -- I -- I don't recall if I did or not. I --
Q. Okay. Did he say anything about antipsychotic medication?
A. I -- I don't remember.
Q. Did he mention any other medications?
A. Not that I remember.
Q. If he had, you would have documented that?

A. I would have listed it, yes.
Q. And then you documented that he had been taken to the hospital on the 29th. But that's just an error on your part, right, it was the night before that?
A. Yes.
Q. So the 28th of September?
A. Yes.
Q. Did you ask him if he had a history of VD or abnormal discharge?
A. Yes.
Q. And he said, no?
A. Yes.
Q. Now, you didn't have history on the -- or you didn't have access to the medical history of Mr. Munroe, did you, at the time?
A. No, I do not.
Q. You did not?
A. I did not.
Q. Do you now as you do the booking process?
A. No.
Q. So you don't know what kind of medical issues you're dealing with when they come through the door?
A. No, just the questions we ask them that

they want to answer.
Q. Just so I understand this. So if an inmate on prior occasions has attempted suicide inside the jail and the medical unit has addressed that, and the person comes back through the jail, you'd have no idea about that person's suicide history?
A. You could pull up that the person has attempted suicide before. If they'd been in the jail, if they attempted it while in the jail, or they told medical that they've had a suicide history, but that's it. I don't have any access to any of their medical stuff --
Q. Okay.
A. -- or medications they're on or anything like that.
Q. And as you go through the booking process with them, nobody from medical is there who does have that kind of access, you're there as security only?
A. Yes.
Q. Okay. Now, at the bottom of that page 90, there's a line there for the inmate's signature and your signature. And it's the inmate signing -- agreeing that the above information can be released to any counselor or attending physician, right? Do

you see that?
A. I do see it.
Q. And it's blank. Did you not have Bradley sign the release?
A. This is only -- it's not on the computer screen when you're doing the questions. I don't know -- I'm assuming this is only like this when it's printed out.
Q. So you did have him sign something?
A. No.
Q. I'm confused.
A. This -- on -- when you're doing the questions --
Q. Yeah.
A. -- all you see are these questions. This is not there at all. So I'm assuming when it prints out, that it shows up there, but that's not part of the computer program where you're answering and asking him the questions.
Q. I see. So when you're on the computer and you have Bradley sitting in front of you and you're asking him these questions, the bottom of the screen in terms of this form, the last thing you see is that line that says, officer's input, parenthesis, medical?

A. I -- I don't recall. I would think it was number 17.
Q. Okay.
A. It might be the officer's input, medical. It might be -- that might be something the doctor puts in or when the officer -- or the medical nurses. I don't know.
Q. So you never had any inmate sign anything like this, you never had to print this form out and have them sign for release?
A. No.
Q. Still don't today?
A. I don't work booking, so I -- I don't know.
Q. So the date and time there down at the bottom of the page, that's probably just the computer entering that automatically, you don't put that in?
A. No.
Q. How do we know you were the one who did this? I mean, I'm talking about -- I'm not calling you a liar. I'm asking you on the form, how do we know which deputy did this process?
A. When you sign in, you have to enter your draw -- or your Ada number.
Q. But it's not recorded on the form itself?

A. I -- I -- I don't know.
Q. Okay. Okay. Then on the next page, 91, officer observations, slash, comments, the first three questions you mark -- or the first three areas of observation you indicate, yes. The first one, that Bradley understands the questions, right?
A. Yes.
Q. And what was that based on?
A. Me asking him if he understood all the questions I was asking him.
Q. Okay. And then two, assaultive/violent behavior. Was that referring to the night before, or was he being assaultive and violent with you?
A. That was referring to the night before.
Q. And then angry or hostile behavior, was that --
A. That -- my observations. Like he wasn't -- he wasn't being like physically hostile. He was just --
Q. Angry?
A. I mean, he was -- he was just angry that he was in jail.
Q. Then down below there it says, self-inflicted injury, scar on wrist, legs, neck, right?

A. Yes.
Q. And you marked, no?
A. Yes.
Q. Did you check?
A. I -- I asked him to show me.
Q. And did he?
A. To the best of my knowledge, yes.
Q. And what was he wearing?
A. I -- I don't remember.
Q. Long sleeve or short sleeve, do you know?
A. I -- I don't remember.
Q. But you looked and you didn't see any scar --
A. Yes.
Q. -- on his arms, legs, or neck?
A. Yes.
Q. But he did tell you at that point that he's seeing visions and hearing voices, so you put yes on those -- 10 and 11?
A. Yes.
Q. And he smelled like alcohol, so 15 you marked, yes, right?
A. Yes.
Q. And then you marked 22 as, no, didn't seem confused, but he was seeing shadow people and they

were telling him to run?
A. He didn't -- he didn't seem out of it at all like if -- for lack of a better term. He understood all the questions I was asking him. He wasn't saying anything weird except for that he sometimes sees shadow people and that they're -- they tell him to run.
Q. But you recorded that he was seeing shadow people and he had voices in his head, right?
A. Yes.
Q. And you recorded that in the present tense, not the past tense, right?
A. Yes.
Q. There's a question mark next to -- underneath the social stress/suicide risk questionnaire, there's a question mark under two of the questions, does the detainee hold position of respect. Do you see that one? And then, do you have unusual home or family problems we should know about. Do you see those two?
A. Yes.
Q. Do you know why they're question marks?
A. I -- I do not. I don't know.
Q. You don't know?
A. (Nonverbal response.)

Q. Is it possible you didn't ask those questions, and so there wasn't an answer, and so just stuck a question mark in there?
A. I -- again, I -- I don't know -- I don't know if he refused to answer those questions or not.
Q. Or maybe you didn't ask him?
A. I -- I -- again, I don't know. I don't remember.
Q. Okay. But you're pretty thorough, you probably asked him and --
A. I would like to say I did, yes.
Q. Okay. And then he'd indicated that he'd been in Intermountain, so you knew that. And you knew about his mental institution or psychiatric care center?
A. Uh-huh. Yes.
Q. You were familiar with Intermountain, what that was?
A. Yes.
Q. Did he indicate to you that he'd been in other hospitals for mental health reasons?
A. No.
Q. Did you ask him?
A. I don't remember.
Q. And then he said, yes, when you asked him

if he'd ever contemplated suicide, right?
A. Yes.
Q. And then when, where, though you didn't document in there?
A. I -- I don't know if he didn't want to say when and where --
Q. Okay.
A. -- he didn't want to answer those questions or not. I don't remember.
Q. Okay. But you didn't document anything on that point, right?
A. Yes.
Q. Okay. And then he told you -- have you ever attempted suicide, right?
A. Yes.
Q. And he said, yes, right?
A. Yes.
Q. And you asked him, are you now contemplating suicide, and he said, yes?
A. Yes. And then that's also when he said, well, I was, but not now.
Q. Oh, it was right then when he said that?
A. Yes.
Q. But you didn't record that, did you?
A. No. I -- I don't know if -- I can't

remember if there's a block to record that conversation or anything in there. I don't recall.
Q. I'm sorry?
A. Like if -- are you talking about while I was filling out -- asking him these questions I didn't record a little note on the side?
Q. Well, you didn't record anywhere on this sheet that he had said, well, I was -- I'm contemplating suicide, oh, no, I mean, I was, and not now.
A. That's -- that's -- you're talking about this, correct?
Q. Yeah.
A. I -- I don't know if there was a place for me to put it.
Q. Okay.
A. If there was, I don't remember.
Q. If he'd said that and there was a place, you would have recorded that, 'cause that would be pretty important, right?
A. I would like to think so, yes.
Q. Okay. Is that a, yes, you would?
A. Yes.
Q. 'Cause you're careful?
A. Yes.

Q. And then the next question, does the inmate's behavior suggest a risk of suicide, and you said, yes?
A. Yes.
Q. And that's in the present tense?
A. Yes.
Q. Yes. Okay. And then what's the next section there, known enemies, co-defendants, et cetera, up to 12 shown? Then is that where you put in information if this guy says, you know, hey, I'm a Blood, or a Crip, or the Aryan Nation guys hate me, or something like that?
A. Yes. He can tell you that he has enemies in the jail or --
Q. And you could put that information in that block?
A. You could, yes.
Q. Okay. Then the next is arresting officer comments. And you have access to that space?
A. I -- I don't think so, no.
Q. And then the next one is booking officer comments. Do you see that?
A. I do see that.
Q. And you can make comments there?
A. I -- I've never seen the -- any -- this

thing below the known enemies.
Q. And that's why your name doesn't appear there as the booking officer?
A. I -- I guess so, yes.
Q. Okay. And you were the booking officer?
A. I was one of them, yes.
Q. For Bradley Munroe?
A. For the JICS and the fingerprinting, yes.
Q. So did you ask him if he had any enemies?
A. Yes, that's one of the questions that would have been asked.
Q. And he didn't say anything?
A. No. Or he didn't -- he either said no, or he didn't say anything at all.
Q. And if doesn't saying anything at all, you would have followed that up with something, wouldn't you?
A. I would have asked him. I would have explained why I need to know so he could be housed in the proper area.
Q. Okay. And he didn't respond?
A. I -- I don't recall if he said, no, or didn't say anything at all.
Q. If he just sat there staring at you, wouldn't you at least put down, no comment, stared

blankly, refused to answer?
A. I -- I don't know. Maybe he left it blank. I have no idea.
(Deposition Exhibit No. G was marked for identification.)
Q. (BY MR. OVERSON) Exhibit G has been marked as the CD here.
A. Okay.
Q. And what we're going to do is we're going to try to watch a little bit of a film.
(Off the record.)
Q. (BY MR. OVERSON) And who's that?
A. Me.
Q. So that's at 7:54?
A. Yes.
Q. And you've gone into the room where the -- or you've gone into the space where the fingerprint machine is, is that --
A. Yes.
Q. And who's that inmate?
A. I -- I don't know. I'm assuming Mr. Munroe.
Q. Did you notice what he's wearing?
A. The orange jumpsuit.
Q. With short --

A. I think so.
Q. -- short sleeves?
A. Short sleeves. That's what it looked like.
Q. So is there a little cove back there? Is that what we're talking about?
A. There is, yes. It would be a -- I mean, if -- you can see if the camera got back there, it would be like --
Q. Further to the right --
A. Yes.
Q. -- off the screen to the right --
A. Yes.
Q. -- lower corner?
A. Yes.
Q. Was it a very busy day that day?
A. I don't remember.
Q. Now, you'd agree that Bradley's back there in that corner with you at this point of the film, and it's 7:50 -- what do you see up there?
A. 7:57, I think.
Q. And he's been back there a little while with you on the video?
A. Uh-huh. Yes.
Q. And who's that gentleman?

A. I believe it's Mr. Johnson. I only met him once or twice. I --
Q. And who's he talking to?
A. My trainer, Deputy Lawson.
Q. And what time do you see there on the clock?
A. It's look like 8:00 to me.
Q. Okay. So at this point in the video, you've started the fingerprinting process?
A. I -- I -- yeah. I think I'm doing his actual fingers. I think before I was doing his picture, because I set it on the little cabinet right there.
Q. Okay.
A. And that's what Deputy Lawson went and picked up.
Q. Got you. So you'd agree at 8:01 Jim Johnson starts talking --
A. Yes.
Q. -- to Bradley Munroe?
A. Yes.
Q. So is this the video that you used?
A. Yes.
Q. Okay. Okay. Is there -- so is there a video where we can see you interacting with

Mr. Munroe?
A. No, that's the video. That's --
Q. That's the one you looked at?
A. Yes.
Q. Okay.
MS. MORGAN: Do you have a copy for us?
MR. OVERSON: You produced that to us.
MS. MORGAN: I know. But you've given us copies of everything else.
MR. OVERSON: I can make one if you like.
MS. MORGAN: Is it just an exact --
MR. OVERSON: Yeah.
MS. MORGAN: -- copy of --
MR. OVERSON: Yeah.
MS. MORGAN: Okay.
MR. OVERSON: Yeah. Exactly what you gave me.
MS. MORGAN: Okay.
Q. (BY MR. OVERSON) Okay. Going back to this -- E, the questionnaire -- there you got it -- page 91. Now, are you -- were you -- on September 29th when you're conducting this interview with Mr. Munroe, were you aware that Ada County Jail had a policy that required you to contact the medical unit staff if the inmate said, yes, to any of those

questions dealing with suicide, specifically, have you ever contemplated suicide, have you ever attempted suicide, are you now contemplating suicide, or does the inmate's behavior suggest a risk of suicide, or have you ever been in a mental institution, or had psychiatric care? Were you aware of that policy?
A. Yes.
Q. And did you contact -- after he said yes to those questions, did you contact anybody in the medical -- Health Services?
A. Jim Johnson was just down there and talked to him.
Q. Okay. And you heard that conversation, right?
A. Yes.
Q. Okay. And did Jim ask him, have you ever contemplated suicide?
A. To the best of my --
MR. DICKINSON: Object, hearsay, but go ahead.
THE WITNESS: To the best of my knowledge, yes.
Q. (BY MR. OVERSON) And what did Bradley say to him?

A. He said, no, I don't have any thoughts right now and I don't want any of your help.
Q. Okay. The question is, did Johnson ask him, have you ever contemplated suicide? Did you hear that question asked by Johnson of Munroe?
A. I -- I guess not, no.
Q. Okay. And did you hear Johnson ask Munroe the question, have you ever attempted suicide?
A. I -- I -- I don't recall.
Q. If he had, you would have written it in the statement?
A. I -- I -- if I can explain. I'm pretty sure that I lumped it all into the suicidal thoughts.
Q. So you're aware that he said yes to those questions, you recorded yes, and you didn't contact anybody to let them know that he had said yes to those questions, right? Is that right?
A. I guess so, yeah. Jim Johnson was just there.
Q. I understand that. Yeah. I understand he was there. But I just want to make sure that you didn't contact Jim Johnson or anybody else in the medical unit after you asked these questions of Munroe?
MR. DICKINSON: Counsel, I'm going to

object. It's been asked and answered and I think at this point it's becoming --
MR. OVERSON: No. Actually --
MR. DICKINSON: Please, can I finish?
MR. OVERSON: Go ahead, Jim.
MR. DICKINSON: At this point, it's becoming argumentative, but you can answer.
THE WITNESS: I -- I -- I guess not, no.
Q. (BY MR. OVERSON) You don't remember telling anybody at the medical health --
A. I -- I don't remember --
MR. DICKINSON: I'm sorry. Same --
MR. OVERSON: Same objection.
MR. DICKINSON: -- objection, asked and answered. It's becoming argumentative, but you can answer.
THE WITNESS: I -- I don't remember.
Q. (BY MR. OVERSON) On September 29th when you were doing this form, did you know where that form went after -- I mean, you put it in on the computer?
A. It's a computer program. You hit submit and then --
Q. Did you have an understanding of whether medical side had access to it?

A. I -- I did -- I believe so, yes, that they had access to it.
Q. At that time?
A. I believe so, yes.
Q. Okay. Did you talk to Jim Johnson again that day?
A. No, I had not.
Q. Okay. You don't -- I guess you'd said earlier you'd only talked to him a couple times?
A. Yes. I -- that might have been the first time I met him.
Q. Okay. And did you talk to him after Bradley committed suicide?
A. No, I did not.
Q. Did Detective Buie interview you --
A. No.
Q. -- after -- no?
A. No.
Q. Did anybody come to you and ask you questions about what happened, what he looked like, how he was behaving when he made these --
A. No.
Q. Remember we were talking about the questioning as to whether or not he had any scars on his arms, wrists, neck, legs --

A. Uh-huh. Yes.
Q. -- and you marked, no?
A. Yes.
Q. And you're pretty certain that you asked that question and you asked to see them?
A. I'm pretty positive, yes.
Q. Okay. Would it surprise you to know that Bradley had a 4-inch scar up his left arm about an inch wide?
A. Up the inside?
Q. Yeah.
A. I -- I don't know if he went like that, look, I don't have anything, or went like that. I don't remember, but I know I looked.
Q. You didn't see a scar?
A. I'm positive I didn't.
(Deposition Exhibit No. H was marked for identification.)
Q. (BY MR. OVERSON) Okay. You've been handed Exhibit H. Do you recognize that policy as the Ada County policy -- Ada County Jail policy?
A. Yes.
Q. Okay. And then under the procedures, it looks like the second to the last sentence in that paragraph, part of the policy that you understood

that you were supposed to follow, that if they answered yes to any of the suicide screening questionnaires, that it'd be marked as such, and then that inmate would be referred to the health care staff for review?
A. Yes. That's why I contacted Jim Johnson, or had the -- that's why Jim Johnson was contacted.
Q. But you didn't contact him after the questionnaire, right?
A. That's correct, yes.
Q. Okay. That was another officer that had contacted him earlier before you had interaction with Mr. Munroe?
A. Yes.
Q. Okay.
(Deposition Exhibit No. I was marked for identification.)
Q. (BY MR. OVERSON) Are you familiar with -- on September 29th of '08, were you familiar with this policy, this J-D-05?
A. I have seen it, yes.
Q. Okay.
A. I mean, I can't say I knew it by heart, every word in it, but, yes.
Q. But the general gist is, is if you start

seeing strange behavior or dangerous behavior or some type of mental illness behavior, the deputy's supposed to contact the Health --
A. Yes.
Q. Okay. And that's consistent with what the officer did before you started having interaction with Mr. Munroe?
A. Yes.
Q. Okay.
(Deposition Exhibit No. J was marked for identification.)
Q. (BY MR. OVERSON) You've just been handed Exhibit J, a document. Do you recognize that document? And I'll represent to you it's not the full document, it's excerpts relevant to the questions I'm going to ask you.
A. It looks like the SOP.
Q. Standard operating procedures --
A. Yes, sir.
Q. -- for the jail?
A. Yes, sir.
Q. I'd ask you turn to page 2. It's policy 1.1.10, Suicide Risk Reduction. Are you there?
A. Yes.
Q. Okay. Now, you've worked at the jail how

long now?
A. I was hired in 2008.
Q. 2008. And how many trainings on suicide prevention and intervention have you had at the jail?
A. Since 2008?
Q. Yeah, at the jail, Ada County Jail.
A. From 2008 to now or --
Q. Yeah.
A. -- at that time? I've had two because I had a 14-month break in service.
Q. When you came back, you had another one?
A. Yes.
Q. Under the procedure intake -- that's what you were following -- immediately upon intake, a booking deputy will complete the intake screening -- and then in parenthesis -- TB, slash, suicide -- questionnaire form for each inmate. That's what you were doing, right?
A. Yes.
Q. Okay. So this is the applicable policy, right?
A. Yes.
Q. Then the next paragraph there: Before the inmate is housed, the booking deputy or HSU staff member shall screen him/her for suicide ideation

using the current initial classification tool, right?
A. Yes.
Q. And that's what you were doing?
A. Yes.
Q. And then it says: The following direct questions regarding suicide ideation are to be asked of every inmate. Did I read that right?
A. Yes, you did.
Q. Okay. The first one is: Have you ever been in a mental institution or had psychiatric care? You asked that question, right?
A. Yes.
Q. And Mr. Munroe said, yes?
A. Yes.
Q. And then the next question: Have you ever contemplated suicide? You asked that question of Mr. Munroe and he said, yes?
A. Yes.
Q. And have you ever attempted suicide? You asked that question and he said, yes?
A. Yes.
Q. And are you contemplating suicide now? And you asked that question and he said, yes?
A. He said, yes, but -- I was, but not now.
Q. Okay. But you didn't record that portion,

right?
A. That's correct, yes.
Q. Okay. And then it says: The deputy shall observe the inmate's demeanor before, during, or after the question that comprises the assessment tool and shall document all findings in JMS. What's JMS?
A. That's the Jail Management System.
Q. And did you make any findings or document anything in the JMS regarding Mr. Munroe?
A. That's what the JICS system was for.
Q. Okay. So that's the same thing?
A. Yes. I -- I -- yes.
Q. Okay. And so you did that, you followed that portion: The deputy shall observe the inmate's demeanor before, during, and after questioning that comprises the assessment tool and shall document all findings in JMS, correct?
A. Yes.
Q. Except for that part you're talking about where he said, but not now, that wasn't documented in JMS?
A. That's correct, yes.
Q. Okay. And then it says: If the inmate answers, yes, to any of the suicide questions, or if a deputy learns or suspects that an inmate is at risk

for suicide, the deputy shall -- and then there's several items listed. The second one being: Immediately notify Health Service staff with all the relevant information and escort the inmate to Health Services for further evaluation and possible housing. Now, and you didn't -- you didn't do that, right?

A. No, I did not, because Jim Johnson was already down there.

Q. Right. Okay. And did you understand the next section, the suicide ideation, that it says: Suicide ideation may occur at any time? Did you understand that --

A. Yes.

Q. -- as being the Ada County policy?

A. Yes.

Q. So you understood that peak times of mental crisis might include admission to the county jail?

A. Yes.

Q. And that's what you were doing, that you were admitting Mr. Munroe to the county jail, right?

A. Yes.

Q. And that was particularly true if the individual inmate is intoxicated?

A. Yes.

Q. And you knew he was intoxicated?

A. Yes.

Q. Okay.

(Deposition Exhibit No. K was marked for identification.)

Q. (BY MR. OVERSON) I'll represent to you this is just another excerpt from that prior exhibit. Go ahead and take a look at it and tell me if you recognize what that is?

A. Yes, it's part of the SOP.

Q. And you were familiar with that intake process policy?

A. Yes.

Q. You made yourself familiar with that 'cause you were conducting that duty as a commissioned officer at the jail?

A. Yes.

Q. Okay. So this 4-inch scar you didn't see?

A. I don't remember, no. I don't -- I don't --

Q. If you saw it, would you have marked it?

A. I -- I believe so, yes. I don't know if he went like that, look, I don't have anything.

Q. No. I'm asking if you would have saw a 4-inch scar running up --

A. Oh, if I would have saw it, yes, I would have marked it.

Q. You would have marked it?

A. Yes.

Q. Is there other information on the computer that you enter with regard to an inmate as you're taking him through the intake process?

A. Not that I did. There's other stuff that the booking deputies do, yes.

Q. Okay. You took the mug shot, right?

A. Yes.

Q. And do you enter information on the computer as you're doing that?

A. Yes, as -- just as -- his identification information, like date of birth, height, hair color, stuff like that.

Q. Tattoos, you'd note that?

A. I -- we do now. I don't know if that was on there then. I don't remember. But I know now it's on there.

Q. Okay. If they had a identifying mark of some kind, like a birth mark or a scar?

A. Yeah.

Q. Okay.

(Deposition Exhibit No. L was

marked for identification.)

Q. (BY MR. OVERSON) Okay. You've got a grouping of papers. And I understand -- I know that the first page is that log.

A. Okay.

Q. But what I want you to do is, I want you to turn to the Bates stamp numbered on the bottom right-hand corner 215. It's a mug shot profile. Do you see that?

A. Yes.

Q. Is that the information that you entered on the computer when you did the mug shot of Mr. Munroe?

A. It would have been his last and first name, date of birth, his gender, race, height, and address, birth, city, and state, yes.

Q. What about forearm, comma, left?

A. That would --

Q. That would have been you, too?

A. Yes.

Q. Okay. So you did see a scar on his arm --

MR. DICKINSON: Object --

MR. OVERSON: -- is that right?

MR. DICKINSON: Object, assumes facts not in evidence.

MR. OVERSON: Okay. Answer the question.
MR. DICKINSON: And foundation, but you, can answer the --
MR. OVERSON: Is that true?
THE WITNESS: Yeah. If -- I might have asked him or I -- I don't recall, so --
Q. (BY MR. OVERSON) Okay. Would you say Bradley was intoxicated when you were talking to him about all this stuff, or was he just hung over?
A. I would say that he was hung over. I -- I don't know. He -- he wasn't like falling over himself drunk.
Q. But he still smelled like alcohol?
A. Yes.
Q. Okay. Were there aspects of his demeanor that suggested to you that he was under the influence of alcohol still?
A. No, just -- just the odor.
Q. Just the odor?
A. Yes.
Q. And he was hung over?
A. That's what it seemed like to me, yes.
Q. Did you check prior bookings on him? Is that part of the process?
A. No.

Q. Okay. After this happened, was there any type of discipline or anything like that levied against you by the Ada County Jail?
A. No.
Q. Anybody talk to you about, you know, maybe you did something wrong or --
A. No.
Q. Just wrote that statement and that's been the end of it for you?
A. Yes.
Q. Until this lawsuit?
A. Yes.
Q. Are you aware of any other suicides that have occurred at the Ada County Jail?
A. Not that I'm aware of, no.
MR. OVERSON: Okay. I believe I'm done. So let's just go off the record and I'll do the same thing as I did last time.
(A brief recess was taken.)
MR. OVERSON: Back on the record.
Q. (BY MR. OVERSON) You came in the next day and wrote that report, that statement, October 1?
A. Yes. My next shift, yes.
Q. Your next shift?
A. Yeah.

Q. Yeah. And who told you that Bradley had committed suicide?
A. I think a deputy had mentioned it in passing.
Q. Just in passing?
A. Yes.
Q. And did you say anything to that deputy?
A. I -- I don't recall if I did or not. I mean, I'm sure I did.
Q. And did you talk to anybody else about it that day?
A. Yeah. I -- I had talked to Deputy Lawson about it, 'cause he was my trainer. He's been around the jail for a while, so I didn't know what to do. I knew -- I know I needed to like write a report or something because I interacted with him.
So I discussed with him what I needed to do and he told me -- have me talk to Sergeant Grunewald. Sergeant Grunewald told me that I needed to write a report.
Q. Okay. And do you remember what you said to them?
A. I don't.
Q. Okay.
A. Not at all.

Q. How did you feel?
A. I felt bad. I wondered if there was more that I could do.
Q. Were you scared?
A. I was nervous, yes.
Q. Were you worried about your job?
A. No. I -- I was positive I did everything right, but I was -- I -- I mean, I was nervous. I mean, I was in training. So I was questioning if I screwed up, yes.
Q. When the inmates are in your custody and you're handling them, do you feel responsible for them?
A. Absolutely, yes.
Q. Make sure nothing bad happens to them?
A. Absolutely.
Q. And that's part of the reason that you're careful with your job and document what you need to document?
A. Yes.
Q. And making the observations that you need to make?
A. Yes.
Q. Okay. Let's go back to that Exhibit E. It's the questionnaire. Let's see. Okay. On

page 90, it's under the questionnaire heading, and it's question eight. Did you ask Bradley that question?

A. I believe so, yes.

MR. DICKINSON: I'm sorry, Counsel, and the witness knows where you are, but I see two eights.

MR. OVERSON: Right. That's why I identified it under the heading of questionnaire.

MR. DICKINSON: Okay. The second one?

MR. OVERSON: Yeah.

MR. DICKINSON: Okay. Thank you.

Q. (BY MR. OVERSON) And number eight reads: Have you fainted recently or had a recent head injury, right?

A. Yes.

Q. And you entered, no, right?

A. Yes.

Q. If there'd been an obvious injury to his head, you would have marked, yes?

A. As far as a head injury?

Q. Yeah.

A. I mean, like a little cut. Part of that head injury is a concussion or something like that. So -- or, you know, like if he had a steel plate in

his head and he told me, yes, that he'd just recently got it, then, yes.

Q. Okay. But if there was physical signs that he'd had some kind of -- some level of trauma to the head, you would have marked, yes?

A. I -- I believe so, yes.

Q. Okay. And, you know, rather than mess with the picture, let me just tell you. Would it surprise you if I told you that Bradley had had an injury to his head?

A. Yes.

Q. It would?

A. Yes, it would.

Q. You were pretty sure he didn't?

A. I -- I mean, to the best of my knowledge, it was a couple of years ago, but I -- I don't remember him having a head injury.

MR. OVERSON: Okay. Yeah. Okay. Okay. I think that wraps it up.

MR. DICKINSON: We'll review and sign.

(The deposition was concluded at 1:15 p.m.)

(Signature requested.)

REPORTER'S CERTIFICATE

I, MARIA D. GLODOWSKI, CSR No. 725, Certified Shorthand Reporter, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and were thereafter transcribed by me, or under my direction;

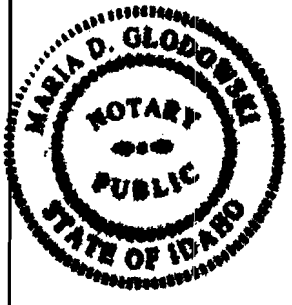
That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 22nd day of November, 2010.

Maria D. Glodowski

MARIA D. GLODOWSKI, CSR, RPR
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636



My Commission expires August 21, 2015

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al., Defendants.	**Case No. CV OC 0901461** **DEFENDANTS' OBJECTIONS AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION**

COME NOW, the Defendants by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan, and Ray J. Chacko, Deputy Prosecuting Attorneys, Civil Division, and object to and move this Court for an Order striking portions of the Plaintiff's Memorandum in Opposition to Defendants' Motion for Reconsideration. This Objection and Motion is

pursuant to Idaho Rules of Civil Procedure 56(e) and 12(f). This Motion is supported by the Memorandum filed herewith.

DATED this 4th day of March 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing DEFENDANTS' OBJECTIONS AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION to the following persons by the following method:

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al., Defendants.	**Case No. CV OC 0901461** **MEMORANDUM IN SUPPORT OF DEFENDANTS' OBJECTIONS AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION**

I. INTRODUCTION

In Plaintiff's February 25, 2011 Memorandum in Opposition to Defendants' Motion for Reconsideration (Pl's Opp. Memorandum), Plaintiff makes unsupported factual and diagnostic

assertions that have no evidentiary basis. Defendants object to and move to strike those statements pursuant to Idaho Rules of Civil Procedure 56(e), 12(f) and applicable case law.

Defendants also bring this Motion in response to Plaintiff's characterization of certain deposition testimony, fearing that characterization may inaccurately depict the actual testimony on record.

II. ARGUMENT

A. Objections and Motion to Strike Reliance on Evidence Not Properly Before the Court and Improper Opinions About the Same.

1. Facts.

a. The Recordings Were Delivered at the Court's Request – Not as Evidence.

Defendants submitted copies of Munroe's Jail telephone recordings to the Court, but as counsel and this Court are aware, the submission was *at the Court's request* after the Motions in Limine were heard. Defendants' position was (and is) the recorded Jail telephone calls provide a realistic window into the estranged relationship between Munroe and his family – particularly his mother. Defendants argued the recorded calls should be allowed as evidence during the trial in this matter (with proper foundation provided). During the Motions in Limine argument, Plaintiff took a contrary position, forwarding that very few of the calls - if any - should be allowed into evidence.

The Court was inclined to allow the calls (with potential temporal limitations), but asked to listen to the content to assist making a determination. Defendants made and delivered copies pursuant to the Court's request, so the Court would be aware of the issues surrounding the calls before being asked to make evidentiary rulings during trial. These recordings were submitted to the Court for Motion in Limine purposes – not as evidence, and Plaintiff cannot now rely upon them without having first established proper foundation.

2. Law.

When a memorandum asserts or argues facts from the underlying case, those facts must first be established according to the Idaho Rules of Evidence. Idaho Rule of Civil Procedure 56(e) (the affidavit rule) sets forth the requirements:

> Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein . . . .

The Idaho Rules of Evidence require that before testimony and opinions be relied upon by a finder of fact they must be based upon personal knowledge (*see* IRE 602) and under oath (*see* IRE 603). To the extent the testimony requires "scientific, technical or other specialized knowledge" within Rule 702, a lay witness cannot forward an opinion on the matter. *See* IRE 701. If the matter requires specialized knowledge, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. *See* IRE 702.

In *Cates v. Albertson's Inc.*, 126 Idaho 1030 (1995), Ball, the attorney representing Cates authored an affidavit that was objected to. The Idaho Supreme Court agreed the information forwarded in conjunction with Ball's improper affidavit could not be considered, explaining:

> Ball's affidavit is not based upon personal knowledge as required by Rule 56(e). The only evidence offered through the Ball affidavit is worker's compensation records from Market Transport/United Express attached as exhibits to the affidavit. Nothing in Ball's affidavit establishes that Ball has any personal knowledge of either the accidents discussed in the records or the preparation and maintenance of the records themselves. Because the affidavit fails to establish that Ball is competent to testify as to the matters contained therein, this Court will not consider the contents of the affidavit in opposition to Albertson's affidavit.
>
> Cates argues that, because nothing in the record indicates that the records are not accurate and kept in the ordinary course of business, the exhibits to Ball's affidavit are admissible under the business records exception to the hearsay rule.

> This contention misstates the requirements of I.R.C.P. 56(e). It is Cates' burden to affirmatively show that Ball is competent to testify to the matters contained in the affidavit and that the affidavit is based on Ball's personal knowledge. Because the Ball affidavit fails to affirmatively establish that Ball has personal knowledge of the contents of the records offered through that affidavit or that the affidavit sets forth facts that would be admissible at trial, the contents of and exhibits to that affidavit will not be considered in opposition to the motion for summary judgment.

Cates, 126 Idaho at 1034, 895 P. 2d at 1227

3. Analysis.

Plaintiff purports to challenge social worker James Johnson's sworn deposition testimony with her (apparently lay) characterizations. Pl's Opp. Memorandum, p.14. She cites to recordings of Jail telephone calls made by Munroe. Next she forwards a diagnoses of him – apparently based on a few words and the "sound" of the recording, the author asserts – Munroe sounded "manic, desperate, depressed, confused, unrealistic ... which demonstrates a dangerously unbalanced state of mind." Plaintiff continues, "He states ... he want[s]...Thorazine (a powerful antipsychotic medication)." *Id.* The paragraph continues describing the call.

The Idaho Rules of Evidence, Idaho Rules of Civil Procedure, and case law preclude Plaintiff from relying on and arguing audio recordings that were not admitted into evidence. If Plaintiff wishes to rely upon the recordings, it is her responsibility to provide foundation for them, and she did not.

Even if the recordings were properly admitted, diagnosing Munroe from an audio recording requires listening to more than one telephone call. There is no showing that the Plaintiff (or author) possesses any education, training or experience in social work, psychology or psychiatry. Further, there is no foundation the author took Munroe's background, actions and

mental history into account when listening to the call. Again, this is the Plaintiff's obligation, and she has failed.

Contrarily, Defendants have laid the necessary foundation for opinions by experts qualified by education, training and experience to aid the Court in determining Munroe's demeanor on the telephone the morning of September 29th. Dr. Leslie Lundt, M.D., a board certified psychiatrist, and Brian Mecham, LMSW, a jail social worker are appropriate experts in their fields, have reviewed the entirety of Munroe's social and psychiatric history as well as listening to his recorded Jail telephone calls. [1,2] Their opinions are unrefuted.

The same concerns surround the testimony about the prescription medication Thorazine. Plaintiff has not set out the prerequisite information to opine as to the uses of this medication or if Munroe's recorded comments to his girlfriend that he would tell the deputies "I hear voices"[3] was a ploy to obtain the medication for recreational use.

B. Wroblewski Testimony.

Plaintiff takes inappropriate liberties characterizing Deputy Wroblewski's testimony from his November 16, 2011 deposition. Defendants object to the mischaracterizations and provide the Court with more representative testimony below.

---

[1] Brian Mecham, LMSW reviewed Munroe's entire social and psychological history, then listened to Munroe's recorded Jail telephone calls from previous incarcerations as well as the short section at issue. In Mecham's professional opinion, Munroe was "forward thinking ... planning on being incarcerated, not dying." Mecham explains Munroe's talk of suicide was an attempt to save his relationship with his girlfriend. Mecham Aff., Ex. A, pp. 3-4.

[2] Dr. Leslie Lundt, M.D. also reviewed the entirety of Munroe's social and psychiatric history as well as listening to his recorded Jail telephone calls. Dr. Lundt stated in her report: "In his last recorded phone conversations on September 29, 2008 there was no evidence of psychotic symptoms or of significantly changed demeanor from his previous calls. He talked of making plans for the future, which is not expected in someone who is actively suicidal." Lundt Aff., Ex. A,¶ 17.

[3] *See* Lundt Aff., Ex. A, p. 12.

1. Under the Influence.

Plaintiff asserts that Deputy Wroblewski "described" Munroe as being "under the influence of alcohol." Pl's Opp. Memorandum, p. 14. Defendants forward that a global reading of the entirety of Deputy Wroblewski's deposition reveals a different conclusion as demonstrated by the following dialogue between Plaintiff's counsel and Wroblewski:

Q. Would you say Bradley was intoxicated when you were talking to him about all this stuff, or was he just hung over?
A. I would say that he was hung over. I – I don't know. He -- wasn't like falling over himself drunk.
Q. But he still smelled like alcohol?
A. Yes.
Q. Okay. Were there aspects of his demeanor that suggested to you that he was under the influence of alcohol still?
A. No, just -- just the odor.
Q. Just the odor?
A. Yes.
Q. And, was he hung over?
A. That's what it seemed to me, yes.

Morgan Aff. (filed March 4, 2011), Ex. A (Wroblewski Dep.), p. 85, LL. 7 –22.

2. Talking About Suicide.

Plaintiff broadly forwards that "[t]he record in this case is full of information that was presented to Johnson that indicated that Mr. Munroe was at serious risk of committing suicide." Pl's Opp. Memorandum, p. 10. Plaintiff also attributes comments by Munroe "talking about committing suicide" to Deputy Wroblewski. *Id.*, p. 14. This is Deputy Wroblewski's actual testimony demonstrating Munroe was not suicidal at the time:

Q. Okay. Did you understand that he'd been – that Munroe had threatened suicide or said comments to the effect that he was thinking about committing suicide?
A. I -- I -- I don't recall. I don't know if they said that or not.

. . .

Q. And you asked him, are you now contemplating suicide, and he said, yes?

A. Yes. And then that's also when he said, well, I was, but not now.

. . .

Q. And are you contemplating suicide now? And you asked that question and he said, yes?
A. He said, yes, but – I was, but not now.

Morgan Aff. (filed March 4, 2011), Ex. A (Wroblewski Dep.), p. 50, LL. 6–11; p. 63, LL. 18–21; p. 79, LL. 22–24.

3. Hearing Voices in His Head and Seeing Shadow People.

Plaintiff forwards Deputy Wroblewski "described" Munroe as "hearing voices in his head" and seeing "shadow people." Pl's Opp. Memorandum, p. 14. Perhaps it is more accurate to describe what Wroblewski did as "recording" on the booking form what Munroe told him:

Q. And then you marked 22 as, no, didn't seem confused, but he was seeing shadow people and they were telling him to run?
A. He didn't – he didn't seem out of it all like if – for lack of a better term. He understood all the questions I was asking him. He wasn't saying anything weird except for that he sometimes sees shadow people and that they're – they tell him to run.
Q. But you recorded that he was seeing shadow people and he had voices in his head, right?
A. Yes.

Morgan Aff. (filed March 4, 2011), Ex. A (Wroblewski Dep.), p. 60, LL. 24-25; p. 61, LL. 1-10.

Munroe's statements must also be considered in light of Munroe's additional comments during his telephone call to his girlfriend, Catherine Saucier, the same morning. This description was set out in earlier briefing and discussed in Dr. Leslie Lundt's report. Munroe stated, "I don't need any pills. The only thing I want is Thorazine. I will tell them I hear voices." Lundt Aff., Ex. A, p. 12.

This puts Munroe's booking comments about seeing shadow people and hearing voices into a different and more accurate light than presented by Plaintiff.

C. Anger

Plaintiff asserts that Munroe was angry while in the Jail. The rest of the comment by Wroblewski puts the testimony in better context: "He – seemed mad. But everybody seems mad when they're in jail." Morgan Aff. (filed March 4, 2011), Ex. A (Wroblewski Dep.), p. 33, LL. 22 – 23.

Furthermore, Deputy Donelson testified that Munroe was in good spirits when he escorted Munroe to Cellblock 7. Morgan Aff. (filed Feb. 11, 2011), Ex. C (Donelson Dep.), p. 39, LL. 9-19.

As to Munroe's demeanor, Donelson also testified that Munroe seemed like any other inmate; just normal, not anxious, not hyper, not loud, not quiet, and not sad. *Id.*, p. 41, LL. 14-17. Donelson explained that nothing about Munroe struck him as out of the ordinary the morning of September 29th. *Id.*, p. 43, LL. 18-23. Additionally, when Donelson brought Munroe to Cellblock 7, the inmates housed there started joking with Munroe, laughing, saying "hi," and "what are you doing back?" *Id.*, p. 38, LL. 1-21. Munroe joked with them and talked to them. *Id.* Munroe seemed happy to Donelson. *Id.*, p. 39, LL. 9-11.

III. CONCLUSION

Plaintiff attempts to rely on evidence for her Motion for Reconsideration that has not been admitted by the court. Evidence must be properly submitted before it can be argued and considered. Even if it could be properly considered, Plaintiff has failed to provide a qualified witness to interpret the information. The only experts whose opinions are before the Court are those forwarded by the Defendants and they are contrary to Plaintiff's interpretations.

Plaintiff also omitted and mischaracterized certain sections of Deputy Wroblewski's testimony which results in a misreading of the evidentiary record. Defendants object, and provide the Court with more of the testimony where necessary.

DATED this 4th day of March 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF DEFENDANTS' OBJECTIONS AND MOTION TO STRIKE PORTIONS OF PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION FOR RECONSIDERATION to the following persons by the following method:

Darwin L. Overson
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Jones & Swartz, PLLC
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ADA COUNTY PROSECUTING ATTORNEY

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **RESTATED MOTION FOR AWARD OF COSTS AND ATTORNEY FEES**[1]

COME NOW, Defendants by and through their attorney of record, the Ada County Prosecuting Attorney's Office, and move this Court for an award of their costs and attorney fees.

[1] Defendants previously filed a Motion for Award of Costs and Attorney Fees on February 3, 2011.

This Motion is based upon Idaho Code §§ 12-117, 12-121, 42 U.S.C. § 1988, applicable state and federal case law, Rule 54, I.R.C.P., the record before this Court, and the contemporaneously filed Memorandum in Support of Restated Motion for Award of Costs and Attorney Fees.

Oral argument is not requested.

DATED this 4th day of March 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing RESTATED MOTION FOR AWARD OF COSTS AND ATTORNEY FEES to the following persons by the following method:

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al. Defendants.	**Case No. CV OC 0901461** **MEMORANDUM IN SUPPORT OF RESTATED MOTION FOR AWARD OF COSTS AND ATTORNEY FEES**

I. INTRODUCTION

Since its inception in early 2009, this litigation has transformed dramatically. What first started as essentially a two (2) plaintiff action under state tort law and § 1983 against Ada County Jail detention staff was replaced by an entirely different § 1983 action against twenty-five (25) new defendants, and has now been reduced to a single plaintiff § 1983 claim against

one (1) social worker. This was due in large part to the Defendants' continuous efforts (through motions and other argument) to properly frame the issues and parties in response to Plaintiffs' unreasonable reliance on frivolous arguments that were not supported in law or fact. Understandably, having had to expend considerable time and expense in defending against such foundationless claims, the Defendants are entitled to recovery for their associated costs and attorney fees.

II. STATE AND FEDERAL LAW

Though this matter was brought in state court, Plaintiffs' theories were based in state (at least at one time) and federal law. As a result, both state and federal law allow the Defendants to recover costs and attorney fees.

A. Idaho Law.

I.R.C.P. 54(d)(1)(C) and (D) allow costs as a matter of right and as a matter of discretion, respectively, to the prevailing party. Pursuant to I.R.C.P. 54(d)(1)(B), the court is to determine when a party prevails in part and may apportion costs after considering all of the issues and claims involved in the action. I.R.C.P. 54(e)(1) similarly allows attorney fees to be awarded to a prevailing party as defined by the rule above.

Attorney fees may also be awarded pursuant to Idaho Code § 12-121 when the case was brought or pursued frivolously, unreasonably or without foundation. Idaho Code § 12-117 additionally allows witness fees and other reasonable expenses where the opposing party acted without a reasonable basis in fact or law. *See also*, *Halvorson v. N. Latah County Highway Dist.*, 2011 WL 310361 *11 (Idaho 2011) (No. 36825). The Idaho Supreme Court has also found that "[w]hen deciding whether the case was brought or defended frivolously, unreasonably, or

without foundation, the entire course of the litigation must be taken into account." *Nampa & Meridian Irr. Dist. v. Washington Federal Sav.*, 135 Idaho 518, 524, 20 P.3d 702, 708 (2001).

B. Federal Law.

The attorney fees provision of 42 U.S.C. § 1983 is found in § 1988. The applicable portions of § 1988 read:

> (b) Attorney's fees
>
> In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985 and 1986 of this title . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fees as part of the costs . . . .
>
> (c) Expert fees
>
> In awarding an attorney's fee under subsection (b) of this section in any action or proceeding to enforce a provision of section 1981 or 1981a of this title, the court, in its discretion, may include expert fees as part of the attorney's fee.

This statute not only allows a court to award attorney fees to a prevailing party, but also to a prevailing defendant upon the finding "'that the plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith.'" *Hughes v. Rowe*, 449 U.S. 5, 14, 101 S. Ct. 173, 178 (1980) (citations omitted).

Lastly, "[a plaintiff's] decision to terminate an ill conceived and wrongly prosecuted law suit cannot serve to limit the consequences of a course of action it initiated and persistently followed." *Fidelity Guarantee Mortg. Corp. v. Reben*, 809 F.2d 931, 937 (1st Cir. 1987). In essence, a plaintiff's voluntary dismissal of § 1983 claims does not bar recovery by a defendant.

III. ARGUMENT

In light of the somewhat convoluted history of this matter, it may be best to chronologically discuss the individual stages of this litigation, specifying the results and basis for recovery by the applicable Defendants at each stage.

A. Plaintiffs' Original Complaint and the Original Defendants' Motion for Summary Judgment.

On January 23, 2009, Rita Hoagland ("Hoagland") and the Estate of Bradley Munroe (the "Estate") filed a Complaint containing the following claims:

> Count I - a federal civil rights § 1983 deliberate indifference claim by the Estate against detention deputies Marshall McKinley, Michael Vineyard, Paul Reiger, Kevin Manning, Kirt Taylor, Adam Arnold, and Leslie Robertson regarding a violation of Mr. Munroe's constitutional rights;[1]
>
> Count II - a state tort action for wrongful death by the Estate and Hoagland against all of the above individuals plus Ada County Sheriff, Gary Raney; and
>
> Count III - a state tort action for intentional infliction of emotional distress by Hoagland against only Leslie Robertson.

These claims were based on Hoagland and the Estate's allegation that the detention deputies were watching a televised football game instead of preventing Hoagland's son, Bradley Munroe ("Munroe"), from taking his life while he was an inmate at the Ada County Jail. The separate claim against Ms. Robertson ostensibly stemmed from a telephone conversation with Hoagland.

On July 30, 2009, service of the Complaint was accepted by the original Defendants. To allay any concerns and "clear the air" on the matter, on September 11, 2009, the original Defendants provided a voluminous amount of discovery, including a detailed detective's investigative report, demonstrating that Plaintiffs' allegations were factually unfounded.

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[1] This claim did not include any allegations against Ada County Sheriff Gary Raney. *See* Complaint at 7.

In addition to being on notice that the factual basis of their Complaint was flawed, Plaintiffs should have known that each and every count in their Complaint also failed as a matter of law. They filed § 1983 claims on behalf of an invalid party (the Estate) and were also aware that Hoagland had not filed a notice of tort claim (required as a condition precedent under Idaho law), but chose to pursue tort claims on her behalf anyway. Similarly, with regards to the Estate's wrongful death claim, they failed to plead the higher standard for recovery as required by Idaho Code §§ 6-904A and 6-904B. Perhaps most obvious was their failure to even allege facts that could constitute a basis for Hoagland's intentional infliction of emotional distress claim against Ms. Robertson.[2] These were all matters that could have (and should have) been considered before the filing of the Complaint, especially since they were squarely within the control of the Plaintiffs. Nevertheless, months passed and Plaintiffs made no attempt to address the deficiencies of their Complaint.

On February 2, 2010, Plaintiffs' counsel indicated they were considering amending their Complaint to add parties, but not additional counts. Aff. of J. Dickinson (May 28, 2010) at ¶ 2. However, no such amendment was forthcoming. *Id.* In light of the stated § 1983 claims, early resolution of the original Defendants' applicable immunity defenses was required by law.[3] As a result, in early May the original Defendants provided Plaintiffs with notice of their intent to file

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[2] Which was most likely attributable to the nonexistence of such facts.

[3] The United States Supreme Court counsels that where qualified immunity is applicable, "'we repeatedly have stressed the importance of resolving immunity questions at the earliest possible stage in litigation'" including "'prior to discovery'" or at the pleading stage since qualified immunity "is 'an immunity from suit rather than a mere defense to liability'" that "'is effectively lost if a case is erroneously permitted to go to trial.'" *Pearson v. Callahan*, --- U.S. ---, 129 S.Ct. 808, 815 (2009) (citations omitted); *see also, Behrens v. Pelletier,* 516 U.S. 299, 308, 116 S.Ct. 834, 839(1996) (holding government officials are entitled to raise the qualified immunity defense immediately, on a motion to dismiss the complaint, to protect against the burdens of discovery and other pre-trial procedures).

for summary judgment.[4] Plaintiffs' counsel responded by stating they intended to amend the Complaint by May 21, 2010. Again, however, no amendment was forthcoming. Given the impending trial date, the original Defendants found themselves in an untenable position where they could not afford to continue to indefinitely rely on opposing counsel's statements and, therefore, a week later moved for summary judgment on the existing Complaint, including the filing of a forty-one (41) page accompanying Memorandum and fourteen (14) Affidavits in support.

It was only after the original Defendants forced the issue that Plaintiffs finally took action. However, instead of addressing the majority of the arguments raised by the original Defendants, Plaintiffs effectively admitted their allegations were frivolous and brought without a reasonable basis in fact and/or law when they abandoned each of their state law claims and dismissed all of the original Defendants against whom their federal § 1983 claims were originally directed.[5] *See* Plaintiffs' Opposition to Defendants' Motion for Summary Judgment at 1, filed June 23, 2010. This was, in essence, a complete retraction of the Complaint.

Despite having filed their case approximately a year and a half earlier, Plaintiffs nonetheless forwarded they were not prepared to defend against summary judgment and asked the Court to prevent the original Defendants from proceeding with summary judgment until Plaintiffs engaged an expert witness and took depositions to help them determine what claims they may have and against whom such claims should be made.[6] This Court was sympathetic to

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[4] *See* the original Defendants' Motion for Discovery Protection, filed May 5, 2010.

[5] This includes Marshall McKinley, Michael Vineyard, Paul Reiger, Kirt Taylor, Adam Arnold, Kevin Manning, and Leslie Robertson. Again, Sheriff Gary Raney was not named as a defendant in regards to the federal § 1983 claims. *See* Plaintiffs' Complaint at 7.

[6] Obvious then and now, this continuation continued the time and expense incurred by the Defendants, contrary to the Supreme Court's admonition that immunity cases are to be decided early in litigation to prevent defendants from discovery and litigation burdens.

Plaintiffs' request and on July 8, 2010, continued summary judgment so Plaintiffs could conduct additional discovery and amend their Complaint. However, the fact remains that given the invalidity of Plaintiffs' Complaint (since all of the claims against all of the original Defendants were abandoned after the filing of summary judgment), it logically follows that the original Defendants are the prevailing party with respect to their Motion. Moreover, given that the allegations contained in the Complaint lacked a reasonable basis in fact and law and were filed frivolously, unreasonably, and without foundation, the original Defendants are entitled to reasonable attorneys' fees pursuant to Idaho Code §§ 12-117 and 12-121 and Title 42 U.S.C. § 1988. This is true regardless of the fact that Plaintiffs abandoned their claims. *See Fidelity* at 937.

The Plaintiffs wrongfully subjected seven (7) Ada County employees to federal civil rights claims and the same individuals (plus the Ada County Sheriff) to state tort claims. All of these individuals were entitled to a legal defense and to resolution of any such claims against them. Notwithstanding the fact that the Plaintiffs' claims failed to have a reasonable basis in law, in an abundance of caution the original Defendants also had to explore if there existed any reasonable basis in fact.

The Ada County Prosecuting Attorney's Office was required by law to provide the original Defendants a legal defense and did just that with regard to all of the claims leveled against them. This included the legal research and writing associated with the lengthy Memorandum and the time spent organizing and collecting fourteen (14) affidavits to support summary judgment. Ada County takes all litigation against it and its employees very seriously as reflected by the fact that (including discovery and other matters) hundreds of hours had

already been put into the original Defendants' defense based on the claims in the Plaintiffs' original Complaint.

B. Plaintiffs' Three (3) Amended Complaints and the New Defendants' Motion to Dismiss.

Over the next two (2) months, Plaintiffs amended their original Complaint multiple times, but waited until September 17, 2010, to finally serve their Third Amended Complaint on the various new Defendants. Inexplicably, Plaintiffs hadn't conducted any depositions in the interim despite the fact that the alleged need to conduct depositions was a stated prerequisite for amending their original Complaint.

The Third Amended Complaint was ninety (90) pages long and contained four hundred and sixty-six (466) paragraphs. It was a *completely different* Complaint from the original. Seven (7) of the eight (8) original Defendants were replaced with thirteen (13) new Defendants[7] and the only original Defendant remaining (Sheriff Gary Raney) was now being sued under a *completely different* theory. The basis of Plaintiffs' new lawsuit dramatically changed. Instead of being based on the alleged actions of Jail detention staff, it was now based on the alleged actions of Jail medical and administrative staff. The focus of the lawsuit shifted entirely from the actions of the individual detention deputies and Ms. Robertson to the medical care Mr. Munroe received at the Jail, along with policies and customs of the Ada County Sheriff's Office. Gone in their entirety were the state law claims. Instead, Plaintiffs now alleged only § 1983 civil rights claims that were different from those alleged in the original Complaint.

These actions by the Plaintiffs appeared as a "bait and switch." Plaintiffs had led the original Defendants down one road for a year and a half, forcing them to defend against the

[7] The new Defendants were listed as: Ada County; Linda Scown; Kate Pape; Steven Garrett, M.D.; Michael E. Estess, M.D.; Ricky Lee Steinberg; Karen Barrett; Jenny Babbitt; James Johnson; Jeremy Wroblewski; David Weich; Lisa Farmer; and Jamie Roach.

original Complaint. With the trial date nearing in less than five (5) months and the summary judgment deadline fast approaching, Plaintiffs asked this Court (and the Defendants) to forget about the original Complaint and to instead focus on the brand new one. Unfortunately, Defendants found themselves defending an entirely new lawsuit – with new claims and new defendants. Suffice it to say, the strain on defense resources was great.

Nevertheless, because the previously raised issues regarding the propriety of the Plaintiffs to bring § 1983 claims had never been resolved, it seemed prudent to separate them out from the Original Motion for Summary Judgment and obtain a ruling before proceeding any further. To this end, the new Defendants filed a Motion to Dismiss (pursuant to I.R.C.P. 12(b)(6)) based on the ineligibility of the Plaintiffs as valid § 1983 plaintiffs under Idaho law. This argument was not new to the Plaintiffs. It had been brought, briefed, and argued earlier in the original Motion for Summary Judgment.

In its November 2, 2010 Memorandum and Order, this Court acknowledged that Idaho law precluded the Estate from bringing claims and dismissed Count I of the Third Amended Complaint, explaining that "Idaho law does not allow Munroe's estate to bring a claim." Memorandum and Order at 7. Plaintiffs filed a Motion to Reconsider. The Court explained its analysis, but did not alter its dismissal. The new Defendants were forced to file motions and

memoranda twice to dismiss a plaintiff who brought suit with no standing.[8] Again, the Plaintiffs' claims that the Estate had standing lacked a reasonable basis in fact and law and were filed frivolously, unreasonably, and without foundation. As such, the new Defendants are entitled to reasonable costs and attorneys' fees pursuant to I.R.C.P 54(d) and (e), Idaho Code §§ 12-117 and 12-121, and Title 42 U.S.C. § 1988 incurred in defending against said claims.

C. The New Defendants' Restated Motion for Summary Judgment.

In light of the dismissal of the Estate and the complete shift in Hoagland's underlying theories and culpable parties under the Third Amended Complaint, the new Defendants were obliged to research, brief, and collect affidavits to support a restated summary judgment argument tailored to the new § 1983 claims alleged against them. The new Defendants' Restated Motion for Summary Judgment was filed on November 12, 2010.

Hoagland's Third Amended Complaint can be subdivided into twenty-five (25) separate § 1983 claims/Defendants. One (1) claim was made against Ada County, twelve (12) were made against individuals in their official capacities, and twelve (12) were made against individuals in their personal capacities. The new Defendants repeatedly pointed out that pursuant to the high bar required to be met to pursue § 1983 actions, a plaintiff must be able to demonstrate direct

[8] Unbeknownst to this Court and the new Defendants, Plaintiffs had also filed an identical lawsuit in Idaho Federal Court. Counsel for the new Defendants luckily discovered the federal complaint, captioned *Hoagland v. Ada County, et al.*, 10-CV-00486-EJL, and during an oral argument on October 7, 2010, brought the concurrent federal court filing to this Court's attention. The new Defendants orally moved to dismiss the state lawsuit pursuant to I.R.C.P. 12(b)(8) which provides for dismissal where there is "another action pending between the same parties for the same cause." This Court declined to entertain the oral motion, but said it would entertain a written motion. The new Defendants assumed Plaintiffs would dismiss their federal lawsuit, but the federal case continued with Judge Lodge, the Federal District Court Judge, issuing a Litigation Order. Faced with defending the same lawsuit in different forums, the new Defendants were forced to draft and file a written motion and memorandum with this Court requesting dismissal. Only then, after the new Defendants had expended additional resources, did Plaintiffs dismiss their duplicative federal case.

causal connections resulting in specific constitutional violations. However, Hoagland continued to pay short shrift to her obligations as a § 1983 plaintiff and improperly shifted her burden to this Court, which painstakingly sifted through the record in order to evaluate her claims. Based upon its findings, on January 20, 2011, this Court granted summary judgment to twenty-four (24) of the twenty-five (25) new Defendants. Only one Defendant (in his individual capacity) was left in the lawsuit.

On February 7, 2011, Hoagland moved for reconsideration but, out of the twenty-four (24) dismissals, only asked this Court to reconsider five (5) claims/Defendants,[9] essentially admitting nineteen (19) of the claims/Defendants in the Third Amended Complaint were forwarded without a reasonable basis in law or fact. Again, each of the dismissed Defendants is entitled to reasonable costs and attorneys' fees pursuant to I.R.C.P 54(d) and (e), Idaho Code §§ 12-117 and 12-121, and Title 42 U.S.C. § 1988.

D. Summary of the Basis for Costs and Attorney Fees.

Distilled to its essence, both state and federal law provide that a prevailing party may be awarded fees and costs when a lawsuit is brought without a reasonable basis or foundation in law and/or fact. Furthermore, one must take into account the entire course of the litigation to make a finding. *Nampa & Meridian Irr. Dist.* at 525, 708.

As demonstrated by the history set forth above, Hoagland and the Estate have continuously engaged in a pattern of alleging claims that have no basis in law and/or fact. Instead of evaluating whether there are proper grounds for their claims, they have adopted a "shoot first and ask questions later" mentality with regards to this lawsuit. Moreover, even when they have information at their disposal disproving their allegations, they refuse to withdraw

[9] These appear to consist of official capacity claims against Ada County, Sheriff Gary Raney, Linda Scown, Kate Pape, and an individual capacity claim against Kate Pape.

baseless claims until the Defendants force them to do so. Only then are they willing to abandon their allegations, implicitly admitting they lacked foundation in law and/or fact. This was seen with the abandonment of their original state law and § 1983 Complaint after the original Defendants filed for summary judgment. The original Defendants clearly prevailed.

Undaunted, and despite the fact they had not conducted the depositions they said were necessary before amending their Complaint, Hoagland and the Estate then filed three (3) new amended Complaints, this time solely under § 1983, knowing the legal standards required were much higher than the evidence supported. Further, Hoagland insisted on re-filing on behalf of the Estate even after having been apprised of the applicable law months earlier in briefing and argument. Idaho law is clear – the Estate's ability to bring a lawsuit was not supported in law. This was a clear victory against the Estate.

Hoagland and the Estate also filed an identical lawsuit in Idaho Federal District Court. Again, however, the Plaintiffs would not dismiss the federal lawsuit on their own accord, forcing the new Defendants to file a motion before this Court to prevent having to defend in both forums. Only then did Plaintiffs dismiss the federal lawsuit.

The new Defendants then filed a Restated Summary Judgment against Hoagland's remaining claims. The Court found that twenty-four (24) of the twenty-five (25) claims/Defendants were not warranted. Interestingly, Hoagland's Motion to Reconsider advanced arguments regarding only five (5) of the twenty-four (24) dismissed claims/Defendants. By her lack of argument, Hoagland has implicitly admitted that her claims against the other nineteen (19) new Defendants were filed without a basis in fact and/or law.

While applicable law is always accessible to a party's counsel, in some cases a plaintiff could assert that facts of the case were unknown to them early in the lawsuit. However, that is

not the case here. When deaths occur in the Ada County Jail, a criminal detective and the Coroner investigate them. Each make written findings. That criminal investigation was provided to the Plaintiffs in Defendants' First Discovery Response dated September 11, 2009. Hoagland knew from mid-September 2009 that her "television watching deputies" allegation was without factual basis. Nevertheless, the original Defendants were forced to defend against those allegations until they brought a Summary Judgment Motion in mid-2010. This similarly occurred with respect to the groundless legal and factual allegations made against the myriad of Defendants named in the Third Amended Complaint. Ignoring the facts and law in their possession, Plaintiffs filed and compelled the new Defendants to answer and defend an unduly burdensome and now almost entirely groundless 466 paragraph Third Amended Complaint. Each and every allegation was answered, only to have almost all dismissed by this Court.

IV. CONCLUSION

The Defendants have prevailed repeatedly, obtaining complete dismissal against one of two Plaintiffs, abandonment of all stated claims against the eight (8) original Defendants, and total dismissals on behalf of twenty-four (24) of the twenty-five (25) new Defendants.[10] This does not even include the claims and defendants dismissed in the federal action. The Defendants prevailed largely because the Plaintiffs' allegations persistently lacked a reasonable basis in fact and/or law and were filed unreasonably and without foundation. Not surprisingly, Ada County taxpayers have expended thousands of dollars defending this matter on behalf of the dismissed Defendants, who are now entitled to recovery of their attorney fees[11] and costs pursuant to I.R.C.P. 54(d) and (e), Idaho Code §§ 12-117 and 12-121, and Title 42 U.S.C. § 1988. Based on

[10] Including completely prevailing as to all official capacity *Monell* claims.

[11] Defendants' counsel has not filed affidavits regarding attorney hours since the process of dividing the hours for each motion is substantial. Defendants' counsel will begin this process once this Court makes a determination as to whether fees will be awarded and for which claims.

the foregoing, the Defendants respectfully request this Court award the Defendants their costs and attorney fees.

DATED this 4th day of March 2011.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2011, I served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF RESTATED MOTION FOR AWARD OF COSTS AND ATTORNEY FEES to the following person by the following method:

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Attorneys for Plaintiff

ORIGINAL

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually, and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; et al.,

Defendants.

Case No. CV-OC-2009-01461

SECOND AFFIDAVIT OF COUNSEL IN SUPPORT OF PLAINTIFF'S MOTION FOR RECONSIDERATION OF THIS COURT'S JANUARY 20, 2011 MEMORANDUM DECISION AND ORDER

STATE OF IDAHO)
: ss.
County of Ada)

I, Darwin L. Overson, being first duly sworn upon oath, depose and state on personal knowledge as follows:

1. I am an attorney with the law firm of Jones & Swartz PLLC, and am authorized to practice law before this and all courts of the State of Idaho.

2. I am counsel of record for Plaintiff Rita Hoagland in the above action.

3. Attached hereto as Exhibit 1 is a true and correct copy of Defendants' Response to Plaintiff's First Interrogatory served on the Plaintiff on September 11, 2009, which identifies 113 persons and/or categories of persons with knowledge of the facts of this case.

4. Attached hereto as Exhibit 2 is a true and correct copy of Defendants' supplemental Response to Plaintiff's First Interrogatory served on the Plaintiff on February 17, 2010, which does not identify any additional persons other than by referring to "supplemental information appended."

5. Attached hereto as Exhibit 3 is a true and correct copy of Defendants' supplemental Response to Plaintiff's First Interrogatory served on the Plaintiff on April 21, 2010, which identifies 113 persons and/or categories of persons with knowledge of the facts of this case.

6. Attached hereto as Exhibit 4 is a true and correct copy of Defendants' supplemental Response to Plaintiff's First Interrogatory served on the Plaintiff on January 14, 2011, which identifies 460 persons and/or categories of persons with knowledge of the facts of this case.

7. Attached hereto as Exhibit 5 is a true and correct copy of a document produced by the Defendants to the Plaintiff indicating that of the 1114 inmates whose JICS screening forms were surveyed in 2006, only 1% of the inmates answered "yes" when asked if they were "now contemplating suicide." On only 2% of the same 1114 inmates, did the deputy indicate that the inmate's behavior suggested a risk of suicide. In only .005% of those same cases did the deputy indicate "yes" to the question of "Does behavior suggest need for immediate psychiatric treatment?"

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DARWIN L. OVERSON

SUBSCRIBED AND SWORN TO before me this 4th day of March, 2011.

ELISABETH E. LUCHINI NOTARY PUBLIC STATE OF IDAHO

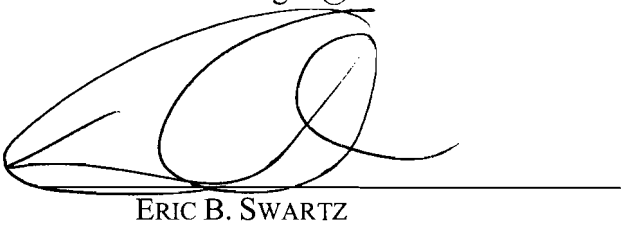
Notary Public for Idaho
My Commission expires 7.8.12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March, 2011, a true and correct copy of the foregoing document was served on the following individuals by the method indicated:

James K. Dickinson
Sherry A. Morgan
Ray J. Chacko
Deputy Prosecuting Attorneys
Civil Division
ADA COUNTY PROSECUTOR'S OFFICE
200 W. Front Street, Room 3191
Boise, ID 83702

[ ] U.S. Mail
[ ] Fax: 287-7719
[ ] Overnight Delivery
[X] Messenger Delivery
[ ] Email: jimd@adaweb.net
smorgan@adaweb.net



ERIC B. SWARTZ
DARWIN L. OVERSON
JOY M. BINGHAM

EXHIBIT 1
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

EXHIBIT 1
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Deputy Prosecuting Attorney
RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 West Front Street, Room. 3191
Boise, ID 83702
(208) 287-7700
Idaho State Bar Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, v. ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KEVIN MANNING, individually and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and in his capacity as a correctional officer for the Ada County Jail; ADAM	Case No. CV OC 0901461 **DEFENDANTS' RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY**

ARNOLD, individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES 1 THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Defendants.

COME NOW, named Ada County Defendants (hereinafter "County"), by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and Answer and Respond to Plaintiffs' First Set Of Interrogatories, Requests For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

ANSWER: Named Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection:

1. Rita Hoagland, Plaintiff in this matter. Named Defendants assume she has knowledge as to facts about the case, about Mr. Munroe's life and alleged damages.

2. Greg Hoagland is Ms. Hoagland's husband. Named Defendants assume he has knowledge as to facts about the case, Mr. Munroe's life and alleged damages.

3. John Munroe. Named Defendants assume he has knowledge as to facts about the case, about Mr. Munroe and alleged damages.

4. Kathleen Saucier. Named Defendants assume she has knowledge as to facts of the case, about Mr. Munroe and alleged damages.

5. Joseph Mallet, Ada County Sheriff's Office Legal Advisor. Mr. Mallet has come to know information regarding the allegations in this matter in his capacity as the attorney for the Ada County Sheriff. His knowledge and communications with him are protected by the attorney-client privilege as well as work product.

6. Linda Scown. Ms. Scown gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

7. Scott Johnson. Mr. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

8. Gary Grunewald. Mr. Grunewald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

9. Aaron Shepherd. Mr. Shepherd gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

10. Bart Hamilton. Mr. Hamilton gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

11. Pat Schneider. Mr. Schneider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

12. Jaimie Barker. Mr. Barker gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

13. Matt Buie. Mr. Buie gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

14. Jared Watson. Mr. Watson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

15. Laurie Kidwell. Ms. Kidwell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

16. Tony Keller. Mr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

17. Darryl Meacham. Mr. Meacham gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

18. Gary Ambrosek. Mr. Ambrosek gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

19. Adam Arnold. Mr. Arnold gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

20. Nancy Bolen. Ms. Bolen gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also

possesses information about the jail and its operation, both generally and in this instance.

21. Christopher Bones. Mr. Bones gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

22. Candace Bowles. Ms. Bowles gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

23. Gregory Brown. Mr. Brown gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

24. Ryan Donaldson. Mr. Donald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

25. Mike Drinkall. Mr. Drinkall gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

26. TJ Dyer. Mr. Dyer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

27. Clarence Goldsmith. Mr. Goldsmith gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

28. Terisa Howell. Ms. Howell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

29. Erica Johnson. Ms. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

30. Meghan Keilty. Ms. Keilty gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

31. Daniel Lawson. Mr. Lawson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

32. Mark Losh. Mr. Losh gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

33. Adam Lowe. Mr. Lowe gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

34. Kevin Manning. Mr. Manning gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

35. Marshall McKinley. Mr. McKinley gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

36. Brian Munz. Mr. Munz gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

37. Germain Neumann. Mr. Neumann gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

38. Michael Petet. Mr. Petet gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

39. Kellee Rassau. Ms. Rassau gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

40. Joseph Richardson. Mr. Richardson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

41. Paul Rieger. Mr. Rieger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

42. Jeremiah Scott. Mr. Scott gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

43. Nick Shaffer. Mr. Shaffer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

44. Darrin Snider. Mr. Snider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

45. Tyler Stenger. Mr. Stenger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

46. Robert Trejo. Mr. Trejo gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

47. Michael Vineyard. Mr. Vineyard gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

48. Jeremy Wroblewski. Mr. Wroblewski gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office.

He also possesses information about the jail and its operation, both generally and in this instance.

49. Chris Zieglmier. Mr. Zieglmier gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

50. Kate Pape. Ms. Pape gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pape possesses information about the jail and medical unit both generally and in this instance.

51. Jeffrey Keller. Mr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Keller possesses information about the jail and medical unit both generally and in this instance.

52. Karen Barrett. Ms. Barrett gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Barrett possesses information about the jail and medical unit both generally and in this instance.

53. Deb Mabbutt. Ms. Mabbutt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Mabbutt possesses information about the jail and medical unit both generally and in this instance.

54. Rick Steinburg. Mr. Steinburg gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr.

Steinburg possesses information about the jail and medical unit both generally and in this instance.

55. Cindy Hosmer. Ms. Hosmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hosmer possesses information about the jail and medical unit both generally and in this instance.

56. Sandra Hughes. Ms. Hughes gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hughes possesses information about the jail and medical unit both generally and in this instance.

57. Roberto Negron. Mr. Negron gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Negron possesses information about the jail and medical unit both generally and in this instance.

58. James Saccamondo. Mr. Saccamondo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Saccamondo possesses information about the jail and medical unit both generally and in this instance.

59. James Johnson. Mr. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the jail and medical unit both generally and in this instance.

60. Shanna Phillips. Ms. Phillips gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Phillips possesses information about the jail and medical unit both generally and in this instance.

61. Laura Senderowicz. Ms. Senderowicz gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Senderowicz possesses information about the jail and medical unit both generally and in this instance.

62. Timothy Huff. Mr. Huff gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Huff possesses information about the jail and medical unit both generally and in this instance.

63. Jenny Babbitt. Ms. Babbitt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Babbitt possesses information about the jail and medical unit both generally and in this instance.

64. Andrew Archuleta. Mr. Archuleta gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Archuleta possesses information about the jail and medical unit both generally and in this instance.

65. David Weich. Mr. Weich gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Weich possesses information about the jail and medical unit both generally and in this instance.

66. Michael Brewer. Mr. Brewer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Brewer possesses information about the jail and medical unit both generally and in this instance.

67. Susan Cochran. Ms. Cochran gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Cochran possesses information about the jail and medical unit both generally and in this instance.

68. Peni Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.

69. Sally McNees. Ms. McNees gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. McNees possesses information about the jail and medical unit both generally and in this instance.

70. Frances Pederson. Ms. Pederson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pederson possesses information about the jail and medical unit both generally and in this instance.

71. Cindy Callaway. Ms. Callaway gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Callaway possesses information about the jail and medical unit both generally and in this instance.

72. Lanea Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.

73. Lisa Farmer. Ms. Farmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Farmer possesses information about the jail and medical unit both generally and in this instance.

74. Marsha Halstead. Ms. Halstead gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Halstead possesses information about the jail and medical unit both generally and in this instance.

75. Juana Hernandez. Ms. Hernandez gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hernandez possesses information about the jail and medical unit both generally and in this instance.

76. Holly Kington. Ms. Kington gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Kington possesses information about the jail and medical unit both generally and in this instance.

77. Judy Skinner. Ms. Skinner gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Skinner possesses information about the jail and medical unit both generally and in this instance.

78. Edward Walker. Mr. Walker gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Walker possesses information about the jail and medical unit both generally and in this instance.

79. Chelsy Weaver. Ms. Weaver gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Weaver possesses information about the jail and medical unit both generally and in this instance.

80. Leslie Robertson. Ms. Robertson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Robertson possesses information about the jail and medical unit both generally and in this instance.

81. Samra Hamzic. Ms. Hamzic gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hamzic possesses information about the jail and medical unit both generally and in this instance.

82. Robyn Malone. Ms. Malone gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Malone possesses information about the jail and medical unit both generally and in this instance.

83. Meliha Dzindo. Ms. Dzindo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dzindo

possesses information about the jail and medical unit both generally and in this instance.

84. Charity Hine. Ms. Hine gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hine possesses information about the jail and medical unit both generally and in this instance.

85. Gayle Waite. Ms. Waite gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Waite possesses information about the jail and medical unit both generally and in this instance.

86. Terra Wills. Ms. Wills gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Wills possesses information about the jail and medical unit both generally and in this instance.

87. Jacob Nichols. Officer Nichols is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Nichols has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

88. Eric Urian. Officer Urian is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Urian has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

89. Kevin Luby. Mr. Luby is an Ada County Paramedic who treated Mr. Munroe. Mr. Luby has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

90. Peter Dina. Mr. Dina is an Ada County Paramedic who treated Mr. Munroe. Mr. Dina has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

91. Tina Rossi. Ms. Rossi is an Ada County Paramedic who treated Mr. Munroe. Ms. Rossi has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

92. Jason Barnard. Mr. Barnard is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

93. Bert Torkelson. Mr. Torkelson is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

94. Ryan Clever. Mr. Clever is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

95. Brandon J. Wilding. Dr. Wilding is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.

96. Jason M. Quinn. Dr. Quinn is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.

97. Dan LNU. Dan is an employee at St. Alphonsus Regional Medical Center. Dan has knowledge of Mr. Munroe after he was transported to the hospital.

98. Erwin Sonnenberg. Mr. Sonnenberg is the Ada County Coroner. Mr. Sonnenberg's office performed an investigation and autopsy after Mr. Munroe's death.

99. Glen R. Groben. Dr. Groben is the forensic pathologist employed by the Ada County Coroner's office. Dr. Groben performed the autopsy of Mr. Munroe. Dr. Groben formed an opinion as to the cause and manner of Mr. Munroe's death.

100. Robert Karinen. Mr. Karinen is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

101. Tom Howell. Mr. Howell is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death, including witness interviews and evidence gathering.

102. Doug Tucker. Mr. Tucker is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

103. Cole Kelly. Ms. Kelly is a technician with the Ada County Coroner's Office. She can testify about the procedures taken after Mr. Munroe passed away.

104. Christopher K. Buck. Mr. Buck was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

105. Everett Bruce Cole. Mr. Cole was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

106. Charles G. Fordyce. Mr. Fordyce was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

107. Garrett M. McCoy. Mr. McCoy was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

108. Witnesses to the robbery of the Maverick Store, including customers and Maverick employees.

109. Past educators and school counselors of Mr. Munroe.

110. Friends of Mr. Munroe.

111. Past treating physicians of Mr. Munroe.

112. Past mental health counselors of Mr. Munroe.

113. Kim LNU, an employee of St. Alphonsus Regional Medical Center.

INTERROGATORY NO. 2: For each such person that you identify in your answer to Interrogatory No. 1, state whether you, your attorneys, agents, or representatives have taken a statement (whether oral or written) regarding any facts or matters which relate to the present action. If so, state the date on which said statement was taken, by whom, and who has custody thereof.

ANSWER: Named Defendants object to Interrogatory No. 2 to the extent Plaintiffs seek to obtain information protected by the attorney-client privilege and work product doctrine. To the extent attorneys, agents or representatives obtained a statement (whether oral or written) regarding any facts or matters which relate to Mr. Munroe's death, or to the extent that information was created or gathered by attorneys or agents in anticipation of litigation, it is protected and privileged pursuant to either the attorney-client privilege and/or work product doctrine. Without waiving said objections, please see written statements provided herewith.

INTERROGATORY NO. 3: Please identify each and every person you may call as a witness at the trial, and for each person, state the substance of his/her expected testimony.

ANSWER: Named Defendants object to Plaintiff's Interrogatory No. 3 as it seeks Named Defendants' trial strategy, and the determination as to who may be called as a witness for trial is protected from discovery. Without waiving said objections, see response to Interrogatory No. 1.

INTERROGATORY NO. 4: Please identify each and every person you expect to call as an expert witness at the trial of this matter, and for each such person state:

COPY

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Deputy Prosecuting Attorney
RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLY MUNROE, Plaintiffs, vs. ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and	**Case No. CV OC 0901461** **NOTICE OF SERVICE**

in his capacity as a correctional officer for the Ada County Jail; ADAM ARNOLD, individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES I THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Defendants.

In compliance with Rules 33(a)(5) and 34(d), Idaho Rules of Civil Procedure, the Ada County Prosecuting Attorney gives notice that on this date, DEFENDANTS' RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY were served upon Eric B. Swartz, Darwin L. Overson and Joy M. Bingham, Jones & Swartz, PLLC by causing the document to be mailed by placing the same in the U.S. Mail, postage prepaid.

DATED this 11th day of September 2009.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of September 2009, I served a true and correct copy of the foregoing NOTICE OF SERVICE to the following person by the following method:

JONES & SWARTZ, PLLC
Eric B. Swartz
Darwin L. Overson
Joy M. Bingham
1673 W. Shoreline Dr., Ste 200
P.O. Box 7808
Boise, ID 83707-7808

✓ Hand Delivery
____ U.S. Mail
____ Certified Mail
____ Telecopy
____ (FAX)

Cheri Adams

EXHIBIT 2
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

EXHIBIT 2
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

FEB 1 7 2010

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Deputy Prosecuting Attorney
RAY J. CHACKO
Deputy Prosecuting Attorney
Civil Division
200 West Front Street, Room. 3191
Boise, ID 83702
(208) 287-7700
Idaho State Bar Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, v. ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KEVIN MANNING, individually and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and in his capacity as a correctional officer for the Ada County Jail; ADAM	Case No. CV OC 0901461 **DEFENDANTS' FOURTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY**

ARNOLD, individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES 1 THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Defendants.

COME NOW, named Ada County Defendants (hereinafter "Defendants"), by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and Answer and Respond to Plaintiffs' First Set Of Interrogatories, Requests For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

SUPPLEMENTAL ANSWER: Named Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection, please find supplemental information appended.

INTERROGATORY NO. 2: For each such person that you identify in your answer to Interrogatory No. 1, state whether you, your attorneys, agents, or representatives have taken a

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GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Deputy Prosecuting Attorney
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200 W. Front Street, Room 3191
Boise, ID 83702
(208) 287-7700
ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLY MUNROE,

Plaintiffs,

vs.

ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and in his capacity as a correctional officer for the Ada County Jail; ADAM ARNOLD, individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and

Case No. CV OC 0901461

NOTICE OF SERVICE

in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES I THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Defendants.

In compliance with Rules 33(a)(5) and 34(d), Idaho Rules of Civil Procedure, the Ada County Prosecuting Attorney gives notice that on this date, DEFENDANTS' FOURTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY were served upon Eric B. Swartz, Darwin L. Overson and Joy M. Bingham, Jones & Swartz, PLLC by causing the document to be hand delivered to a representative of the law firm of Jones & Swartz, PLLC.

DATED this 17 day of February, 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

EXHIBIT 3
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

EXHIBIT 3
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

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GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

JAMES K. DICKINSON
Senior Deputy Prosecuting Attorney
SHERRY A. MORGAN
Deputy Prosecuting Attorney
RAY J. CHACKO
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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, v. ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KEVIN MANNING, individually	Case No. CV OC 0901461 **DEFENDANTS' EIGHTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY**

and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and in his capacity as a correctional officer for the Ada County Jail; ADAM ARNOLD, individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES I THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Plaintiffs,

COME NOW, the named Defendants (hereinafter "Named Defendants"), by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and supplement their answers and responses to Plaintiffs' First Set Of Interrogatories, Requests For Production And Requests For Admission To Defendant Ada County Sheriff Gary Raney, as follows:

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

SUPPLEMENTAL ANSWER NO. 1: Named Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection, the address for the individuals identified in numbers 5 through 86 below is 7200 Barrister, Boise, Idaho, and can be contacted through counsel. Please also see Bates Nos. 00001 to 00085 provided herewith, and the following:

1. Rita Hoagland, Plaintiff in this matter. Named Defendants assume she has knowledge as to facts about the case, about Mr. Munroe's life and alleged damages.
2. Greg Hoagland is Ms. Hoagland's husband. Named Defendants assume he has knowledge as to facts about the case, Mr. Munroe's life and alleged damages.
3. John Munroe. Named Defendants assume he has knowledge as to facts about the case, about Mr. Munroe and alleged damages.
4. Kathleen Saucier. Named Defendants assume she has knowledge as to facts of the case, about Mr. Munroe and alleged damages.
5. Joseph Mallet, Ada County Sheriff's Office Legal Advisor, Administration. Mr. Mallet has come to know information regarding the allegations in this matter in his capacity as the attorney for the Ada County Sheriff. His knowledge and communications with him are protected by the attorney-client privilege as well as work product.

6. Linda Scown, Captain, Director of Jail and Court Services Bureau. Captain Scown gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

7. Scott Johnson, Lieutenant, Jail and Court Services Bureau. Lt. Johnson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

8. Gary Grunewald, Administration Sergeant, Acting Lieutenant, Jail and Court Services Bureau. Sgt. Grunewald gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

9. Aaron Shepherd, Lieutenant, Jail and Court Services Bureau. Lt. Shepherd gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

10. Bart Hamilton, Lieutenant, Investigations, Police Services Bureau (no longer employed). Lt. Hamilton gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

11. Pat Schneider, Sergeant, Major Crimes Unit, Police Services Bureau. Sgt. Schneider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

12. Jaimie Barker, Detective, Major Crimes Unit, Police Services Bureau. Detective Barker gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

13. Matt Buie, Detective, Major Crimes Unit, Police Services Bureau. Detective Buie gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

14. Jared Watson, Detective, Major Crimes Unit, Police Services Bureau. Detective Watson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

15. Laurie Kidwell, Field Services Technician, Crime Lab, Police Services Bureau. Ms. Kidwell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

16. Tony Keller, Sergeant, Police Services Bureau. Sgt. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

17. Darryl Meacham, Sergeant, Jail and Court Services Bureau. Sgt. Meacham gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

18. Gary Ambrosek, Commissioned Deputy, Jail and Court Services Bureau. Deputy Ambrosek gained information about Mr. Munroe, his stays at the jail

and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

19. Adam Arnold, Commissioned Deputy, Jail and Court Services Bureau. Deputy Arnold gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

20. Nancy Bolen, LE Records Technician, Inmate Records, Jail and Court Services Bureau (no longer employed). Ms. Bolen gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

21. Christopher Bones, Commissioned Deputy, Jail and Court Services Bureau. Deputy Bones gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

22. Candace Bowles, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Bowles gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's

Office. She also possesses information about the jail and its operation, both generally and in this instance.

23. Gregory Brown, Commissioned Deputy, Jail and Court Services Bureau. Deputy Brown gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

24. Ryan Donelson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Donelson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

25. Mike Drinkall, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Drinkall gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

26. TJ Dyer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Dyer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses

information about the jail and its operation, both generally and in this instance.

27. Clarence Goldsmith, Commissioned Deputy, Jail and Court Services Bureau. Deputy Goldsmith gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

28. Terisa Howell, Commissioned Deputy, Jail and Court Services Bureau. Deputy Howell gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

29. Erica Johnson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Johnson gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

30. Meghan Keilty, Commissioned Deputy, Jail and Court Services Bureau. Deputy Keilty gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also

possesses information about the jail and its operation, both generally and in this instance.

31. Daniel Lawson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Lawson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

32. Mark Losh, Commissioned Deputy, Jail and Court Services Bureau. Deputy Losh gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

33. Adam Love, Commissioned Deputy, Jail and Court Services Bureau. Deputy Love gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

34. Kevin Manning, Commissioned Deputy, Jail and Court Services Bureau. Deputy Manning gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

35. Marshall McKinley, Commissioned Deputy, Jail and Court Services Bureau. Deputy McKinley gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

36. Brian Munz, Commissioned Deputy, Jail and Court Services Bureau. Deputy Munz gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

37. Germain Neumann, Commissioned Deputy, Jail and Court Services Bureau. Deputy Neumann gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

38. Michael Petet, Commissioned Deputy, Jail and Court Services Bureau. Deputy Petet gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

39. Kellee Rassau, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rassau gained information about Mr. Munroe, his stays at the jail and his passing through her employment with the Sheriff's Office. She also possesses information about the jail and its operation, both generally and in this instance.

40. Joseph Richardson, Commissioned Deputy, Transport, Jail and Court Services Bureau. Deputy Richardson gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

41. Paul Rieger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rieger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

42. Jeremiah Scott, Commissioned Deputy, Jail and Court Services Bureau. Deputy Scott gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

43. Nick Shaffer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Shaffer gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

44. Darrin Snider, Commissioned Deputy, Jail and Court Services Bureau. Deputy Snider gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

45. Tyler Stenger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Stenger gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

46. Robert Trejo, Commissioned Deputy, Patrol, Jail and Court Services Bureau. Deputy Trejo gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also

possesses information about the jail and its operation, both generally and in this instance.

47. Michael Vineyard, Commissioned Deputy, Jail and Court Services Bureau. Deputy Vineyard gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

48. Jeremy Wroblewski, Commissioned Deputy, Jail and Court Services Bureau. Deputy Wroblewski gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

49. Chris Zieglmeier, Commissioned Deputy, Jail and Court Services Bureau. Deputy Zieglmeier gained information about Mr. Munroe, his stays at the jail and his passing through his employment with the Sheriff's Office. He also possesses information about the jail and its operation, both generally and in this instance.

50. Kate Pape, Health Services Administrator, Jail Medical Services, Jail and Court Services Bureau. Ms. Pape gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office.

Ms. Pape possesses information about the jail and medical unit both generally and in this instance.

51. Jeffrey Keller, M.D., Physician, Jail Medical Services, Jail and Court Services Bureau. Dr. Keller gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with Ada County. Dr. Keller possesses information about the jail and medical unit both generally and in this instance.

52. Karen Barrett, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau. Ms. Barrett gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Barrett possesses information about the jail and medical unit both generally and in this instance.

53. Deb Mabbutt, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Mabbutt gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Mabbutt possesses information about the jail and medical unit both generally and in this instance.

54. Rick Steinburg, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Steinburg gained information about Mr. Munroe, his stays at the jail and his passing through employment

with the Sheriff's Office. Mr. Steinburg possesses information about the jail and medical unit both generally and in this instance.

55. Cindy Hosmer, Certified Medical Assistant, Jail Medical Services, Jail and Court Services Bureau. Ms. Hosmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hosmer possesses information about the jail and medical unit both generally and in this instance.

56. Sandra Hughes. Ms. Hughes gained information about Mr. Munroe, his stays at the jail and his passing through her contract employment with the Sheriff's Office. Ms. Hughes possesses information about the jail and medical unit both generally and in this instance, but no longer works there.

57. Roberto Negron. Mr. Negron gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with the Sheriff's Office. Mr. Negron possesses information about the jail and medical unit both generally and in this instance, but no longer works there.

58. James Saccamondo. Mr. Saccamondo gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with the Sheriff's Office. Mr. Saccamondo possesses information about the jail and medical unit both generally and in this instance, but no longer works there.

59. James Johnson, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Johnson gained information

about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the jail and medical unit both generally and in this instance.

60. Shanna Phillips, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Phillips gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Phillips possesses information about the jail and medical unit both generally and in this instance.

61. Laura Senderowicz, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Senderowicz gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Senderowicz possesses information about the jail and medical unit both generally and in this instance.

62. Timothy Huff, DDS, Dentist, Jail Medical Services, Jail and Court Services Bureau. Dr. Huff gained information about Mr. Munroe, his stays at the jail and his passing through his contract employment with Ada County. Dr. Huff possesses information about the jail and medical unit both generally and in this instance.

63. Jenny Babbitt, Inmate Healthcare Supervisor, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Babbitt gained information about Mr. Munroe, his stays at the jail and his passing through

employment with the Sheriff's Office. Ms. Babbitt possesses information about the jail and medical unit both generally and in this instance.

64. Andrew Archuleta, Medial Attendant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Archuleta gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Archuleta possesses information about the jail and medical unit both generally and in this instance.

65. David Weich, Medical Attendant, Jail Medical Services, Jail and Court Services Bureau. Mr. Weich gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Weich possesses information about the jail and medical unit both generally and in this instance.

66. Michael Brewer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Mr. Brewer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Brewer possesses information about the jail and medical unit both generally and in this instance.

67. Susan Cochran. Ms. Cochran may have gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Cochran possesses information about the jail and

medical unit both generally and in this instance. She is no longer employed by the Sheriff.

68. Peni Dean, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.

69. Sally McNees, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. McNees gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. McNees possesses information about the jail and medical unit both generally and in this instance.

70. Frances Pederson, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Pederson gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Pederson possesses information about the jail and medical unit both generally and in this instance.

71. Cindy Callaway, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Callaway gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Callaway

possesses information about the jail and medical unit both generally and in this instance.

72. Lanea Dean. Ms. Dean gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the jail and medical unit both generally and in this instance.

73. Lisa Farmer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Farmer gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Farmer possesses information about the jail and medical unit both generally and in this instance.

74. Marsha Halstead, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Halstead gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Halstead possesses information about the jail and medical unit both generally and in this instance.

75. San Juana Hernandez, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Hernandez gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hernandez possesses information about the jail and medical unit both generally and in this instance.

76. Holly Kington (Harris), LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Kington gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Kington possesses information about the jail and medical unit both generally and in this instance.

77. Judy Skinner, LPN, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Skinner gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Skinner possesses information about the jail and medical unit both generally and in this instance.

78. Edward Walker, LPN, Jail Medical Services, Jail and Court Services Bureau. Mr. Walker gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Mr. Walker possesses information about the jail and medical unit both generally and in this instance.

79. Chelsy Weaver, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Weaver gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Weaver possesses information about the jail and medical unit both generally and in this instance.

80. Leslie Robertson, Healthcare Administrative Supervisor, Jail Medical Services, Jail and Court Services Bureau. Ms. Robertson gained information

about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Robertson possesses information about the jail and medical unit both generally and in this instance.

81. Samra Hamzic, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hamzic gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Hamzic possesses information about the jail and medical unit both generally and in this instance.

82. Robyn Malone, CNA, Jail Medical Services, Jail and Court Services Bureau. Ms. Malone gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Malone possesses information about the jail and medical unit both generally and in this instance.

83. Meliha Dzindo, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Dzindo gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Dzindo possesses information about the jail and medical unit both generally and in this instance.

84. Charity Hine, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hine gained information about Mr. Munroe, his stays at the jail and his passing through employment with the

Sheriff's Office. Ms. Hine possesses information about the jail and medical unit both generally and in this instance.

85. Gayle Waite, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Waite gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Waite possesses information about the jail and medical unit both generally and in this instance.

86. Terra Wills, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Wills gained information about Mr. Munroe, his stays at the jail and his passing through employment with the Sheriff's Office. Ms. Wills possesses information about the jail and medical unit both generally and in this instance.

87. Jacob Nichols. Officer Nichols is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Nichols has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

88. Eric Urian. Officer Urian is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Urian has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

89. Kevin Luby. Mr. Luby is an Ada County Paramedic who treated Mr. Munroe. Mr. Luby has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

90. Peter Dina. Mr. Dina is an Ada County Paramedic who treated Mr. Munroe. Mr. Dina has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

91. Tina Rossi. Ms. Rossi is an Ada County Paramedic who treated Mr. Munroe. Ms. Rossi has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

92. Jason Barnard. Mr. Barnard is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

93. Bert Torkelson. Mr. Torkelson is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

94. Ryan Clever. Mr. Clever is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

95. Brandon J. Wilding. Dr. Wilding is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.

96. Jason M. Quinn. Dr. Quinn is a physician. He will have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest.

97. Dan LNU. Dan is an employee at St. Alphonsus Regional Medical Center. Dan has knowledge of Mr. Munroe after he was transported to the hospital.

98. Erwin Sonnenberg. Mr. Sonnenberg is the Ada County Coroner. Mr. Sonnenberg's office performed an investigation and autopsy after Mr. Munroe's death.

99. Glen R. Groben. Dr. Groben is the forensic pathologist employed by the Ada County Coroner's office. Dr. Groben performed the autopsy of Mr. Munroe. Dr. Groben formed an opinion as to the cause and manner of Mr. Munroe's death.

100. Robert Karinen. Mr. Karinen is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

101. Tom Howell. Mr. Howell is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death, including witness interviews and evidence gathering.

102. Doug Tucker. Mr. Tucker is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

103. Cole Kelly. Ms. Kelly is a technician with the Ada County Coroner's Office. She can testify about the procedures taken after Mr. Munroe passed away.

104. Christopher K. Buck. Mr. Buck was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

105. Everett Bruce Cole. Mr. Cole was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

106. Charles G. Fordyce. Mr. Fordyce was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

107. Garrett M. McCoy. Mr. McCoy was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

108. Witnesses to the robbery of the Maverick Store, including customers and Maverick employees.

109. Past educators and school counselors of Mr. Munroe.

110. Friends of Mr. Munroe.

111. Past treating physicians of Mr. Munroe.

112. Past mental health counselors of Mr. Munroe.

113. Kim LNU, an employee of St. Alphonsus Regional Medical Center.

APR 2 1 2010

GREG H. BOWER
ADA COUNTY PROSECUTING ATTORNEY

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE,	**Case No. CV OC 0901461**
Plaintiffs,	**NOTICE OF SERVICE**
vs.	
ADA COUNTY SHERIFF, GARY RANEY, an elected official of Ada County and operator of the Ada County Sheriff's Office and Ada County Jail; MARSHALL McKINLEY, individually and in his capacity as a correctional officer for the Ada County Jail; MICHAEL VINEYARD, individually and in his capacity as a correctional officer for the Ada County Jail; PAUL REIGER, individually and in his capacity as a correctional officer for the Ada County Jail; KIRT TAYLOR, individually and in his capacity as a correctional officer for the Ada County Jail; ADAM ARNOLD,	

individually and in his capacity as a correctional officer for the Ada County Jail; LESLIE ROBINSON, individually and in her capacity as Director of Health Services for the Ada County Jail; and JOHN DOES I THRU X, individually and in their capacity as correctional officers for the Ada County Jail and/or other staff or officers for the Ada County Sheriff's Office or the Ada County Jail,

Defendants.

In compliance with Rules 33(a)(5) and 34(d), Idaho Rules of Civil Procedure, the Ada County Prosecuting Attorney gives notice that on this date, DEFENDANTS' EIGHTH SUPPLEMENTAL RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY were served upon Eric B. Swartz, Darwin L. Overson and Joy M. Bingham, Jones & Swartz, PLLC by causing the document to be hand delivered to the offices of Jones & Swartz, PLLC, located at 1673 W. Shoreline Drive, Suite 200, Boise, Idaho 83707-7808.

DATED this 21 day of April, 2010.

GREG H. BOWER
Ada County Prosecuting Attorney

By: _____
James K. Dickinson
Senior Deputy Prosecuting Attorney

EXHIBIT 4
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

EXHIBIT 4
To Second Affidavit of Counsel in Support of
Plaintiff's Motion for Reconsideration of this Court's
January 20, 2011 Memorandum Decision and Order

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ISB Nos. 2798, 5296 and 5862

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

RITA HOAGLAND, individually and in her capacity as Personal Representative of the ESTATE OF BRADLEY MUNROE, Plaintiffs, vs. ADA COUNTY, a political subdivision of the State of Idaho; et al., Defendants.	**Case No. CV OC 0901461** **DEFENDANTS' FOURTEENTH SUPPLEMENTAL ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY**

COME NOW, the Defendants, by and through their attorneys of record, James K. Dickinson, Sherry A. Morgan and Ray J. Chacko, Deputy Prosecuting Attorneys, and supplement their answers and responses to Plaintiff's First Set of Interrogatories, Requests for Production and Requests for Admission to Defendant Ada County Sheriff Gary Raney, as follows:

DEFENDANTS' FOURTEENTH SUPPLEMENTAL ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO DEFENDANT ADA COUNTY SHERIFF GARY RANEY – PAGE 1

INTERROGATORY NO. 1: Please identify each and every person known to you who has knowledge or who purports to have knowledge of any of the facts of this case, whether relating to a claim or a defense, or concerning either the issues of damages or liability, and for each such person, state and describe what you believe each such person knows or purports to know about the facts of this case.

ANSWER: Defendants object, to the extent Plaintiffs' Interrogatory No. 1 seeks the names and knowledge of individuals who have gained their knowledge from protected or privileged sources. Without waiving said objection:

1. Rita Hoagland, Plaintiff in this matter. Defendants assume she has knowledge as to facts about the case, about Mr. Munroe's life and alleged damages.
2. Greg Hoagland is Ms. Hoagland's husband. Defendants assume he has knowledge as to facts about the case, Mr. Munroe's life and alleged damages.
3. John Munroe. Defendants assume he has knowledge as to facts about the case, about Mr. Munroe and alleged damages.
4. Catherine Saucier. Defendants assume she has knowledge as to facts of the case, about Mr. Munroe and alleged damages.
5. Joseph Mallet, Ada County Sheriff's Office Legal Advisor, Administration. Mr. Mallet has come to know information regarding the allegations in this matter in his capacity as the attorney for the Ada County Sheriff. His knowledge and communications with him are protected by the attorney-client privilege as well as work product.
6. Linda Scown, Captain, Director of Jail and Court Services Bureau. Captain Scown gained information about Mr. Munroe, his stays at the Jail and his passing

through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance. By virtue of Captain Scown's position as Captain over portions of the Ada County Jail, she also possesses information about Mr. Munroe, his stay at the Jail, and his death.

7. Scott Johnson, Lieutenant, Jail and Court Services Bureau. Lt. Johnson gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. As a lieutenant overseeing certain operations of the Ada County Jail, he has information about Mr. Munroe, his stay at the Jail, and his death.

8. Gary Grunewald, Administration Sergeant, Acting Lieutenant, Jail and Court Services Bureau. Sgt. Grunewald gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

9. Aaron Shepherd, Lieutenant, Jail and Court Services Bureau. Lt. Shepherd gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. As a lieutenant overseeing certain operations of the Ada County Jail, he has information about Mr. Munroe, his stay at the Jail, and his death.

10. Bart Hamilton, Lieutenant, Investigations, Police Services Bureau (no longer employed). Lt. Hamilton gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

11. Pat Schneider, Sergeant, Major Crimes Unit, Police Services Bureau. Sgt. Schneider gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

12. Jaimie Barker, Detective, Major Crimes Unit, Police Services Bureau. Detective Barker gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Jaimie Barker is a crime scene investigator for the Ada County Sheriff's Office and was assigned to assist with the criminal investigation of Mr. Munroe's death.

13. Matt Buie, Detective, Major Crimes Unit, Police Services Bureau. Detective Buie gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Matt Buie is a detective with the Ada County Sheriff's Office and was assigned to investigate Mr. Munroe's death and determine whether any criminal actions caused Mr. Munroe's death.

14. Jared Watson, Detective, Major Crimes Unit, Police Services Bureau. Detective Watson gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

15. Laurie Kidwell, Field Services Technician, Crime Lab, Police Services Bureau. Ms. Kidwell gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance as she assisted Detective Buie with the criminal investigation of this matter.

16. Tony Keller, Sergeant, Police Services Bureau. Sgt. Keller gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

17. Darryl Meacham, Sergeant, Jail and Court Services Bureau. Sgt. Meacham gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

18. Gary Ambrosek, Commissioned Deputy, Jail and Court Services Bureau. Deputy Ambrosek gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

19. Adam Arnold, Commissioned Deputy, Jail and Court Services Bureau. Deputy Arnold gained information about Mr. Munroe, his stays at the Jail and his passing

through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

20. Nancy Bolen, LE Records Technician, Inmate Records, Jail and Court Services Bureau (no longer employed). Ms. Bolen gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance.

21. Christopher Bones, Commissioned Deputy, Jail and Court Services Bureau. Deputy Bones gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

22. Candace Bowles, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Bowles gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office as a booking deputy. She also possesses information about the Jail and its operation, both generally and in this instance.

23. Gregory Brown, Commissioned Deputy, Jail and Court Services Bureau. Deputy Brown gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

24. Ryan Donelson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Donelson gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses

information about the Jail and its operation, both generally and in this instance. Mr. Donelson had interaction with Mr. Munroe when Deputy Donelson escorted Mr. Munroe to his cell, and after Mr. Munroe explained to Donelson he was in danger at the Jail, Deputy Donelson helped to place him in Protective Custody for his safety.

25. Mike Drinkall, Commissioned Deputy, Classifications, Jail and Court Services Bureau. Deputy Drinkall gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Deputy Drinkall works in the classification division of the Ada County Sheriff's Office and helped Deputy Donelson protect Mr. Munroe by placing him in Protective Custody.

26. TJ Dyer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Dyer gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Deputy Dyer was one of the first responders to Mr. Munroe's cell on September 29, 2008 and assisted in the attempt to revive Mr. Munroe.

27. Clarence Goldsmith, Commissioned Deputy, Jail and Court Services Bureau. Deputy Goldsmith gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

28. Terisa Howell, Commissioned Deputy, Jail and Court Services Bureau. Deputy Howell gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance.

29. Erica Johnson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Johnson gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance. Erica Johnson was a booking deputy and interacted with Mr. Munroe when he was arrested and brought to the Ada County Jail in late September 2008.

30. Meghan Keilty, Commissioned Deputy, Jail and Court Services Bureau. Deputy Keilty gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance.

31. Daniel Lawson, Commissioned Deputy, Jail and Court Services Bureau. Deputy Lawson gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this matter as he spoke to psychiatric social worker James Johnson about Mr. Munroe the morning of September 29, 2008, in his capacity as a detention deputy. Deputy Lawson was Deputy Wroblewski's supervisor on September 29, 2008.

32. Mark Losh, Commissioned Deputy, Jail and Court Services Bureau. Deputy Losh gained information about Mr. Munroe, his stays at the Jail and his passing through

his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

33. Adam Lowe, Commissioned Deputy, Jail and Court Services Bureau. Deputy Lowe gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office as a booking deputy. He also possesses information about the Jail and its operation, both generally and in this matter. Deputy Lowe assisted with the booking of Mr. Munroe on September 28, 2008, and rode with Mr. Munroe in the ambulandce to Saint Alphonsus Regional Medical Center on September 29, 2008.

34. Kevin Manning, Commissioned Deputy, Jail and Court Services Bureau. Deputy Manning gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Kevin Manning was one of the detention deputies assigned to Cell Block 7 the day Mr. Munroe died.

35. Marshall McKinley, Commissioned Deputy, Jail and Court Services Bureau. Deputy McKinley gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Marshall McKinley was one of the detention deputies assigned to Cell Block 7 the day Mr. Munroe died.

36. Brian Munz, Commissioned Deputy, Jail and Court Services Bureau. Deputy Munz gained information about Mr. Munroe, his stays at the Jail and his passing

through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

37. Germain Neumann, Commissioned Deputy, Jail and Court Services Bureau. Deputy Neumann gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

38. Michael Petet, Commissioned Deputy, Jail and Court Services Bureau. Deputy Petet gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

39. Kellee Rassau, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rassau gained information about Mr. Munroe, his stays at the Jail and his passing through her employment with the Sheriff's Office. She also possesses information about the Jail and its operation, both generally and in this instance.

40. Joseph Richardson, Commissioned Deputy, Transport, Jail and Court Services Bureau. Deputy Richardson gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

41. Paul Rieger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Rieger gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Paul Rieger

was one of the detention deputies assigned to Cell Block 7 the day Mr. Munroe died.

42. Jeremiah Scott, Commissioned Deputy, Jail and Court Services Bureau. Deputy Scott gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

43. Nick Shaffer, Commissioned Deputy, Jail and Court Services Bureau. Deputy Shaffer gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

44. Darrin Snider, Commissioned Deputy, Jail and Court Services Bureau. Deputy Snider gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

45. Tyler Stenger, Commissioned Deputy, Jail and Court Services Bureau. Deputy Stenger gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

46. Robert Trejo, Commissioned Deputy, Patrol, Jail and Court Services Bureau. Deputy Trejo gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

47. Michael Vineyard, Commissioned Deputy, Jail and Court Services Bureau. Deputy Vineyard gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Michael Vineyard was a detention deputy assigned to Cell Block 7 the day Mr. Munroe died.

48. Jeremy Wroblewski, Commissioned Deputy, Jail and Court Services Bureau. Deputy Wroblewski gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance. Jeremy Wroblewski, a deputy working in the Booking Division of the Ada County Jail, booked Mr. Munroe into the Jail September 29th.

49. Chris Zieglmeier, Commissioned Deputy, Jail and Court Services Bureau. Deputy Zieglmeier gained information about Mr. Munroe, his stays at the Jail and his passing through his employment with the Sheriff's Office. He also possesses information about the Jail and its operation, both generally and in this instance.

50. Kate Pape, Health Services Administrator, Jail Medical Services, Jail and Court Services Bureau. Ms. Pape gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Pape possesses information about the Jail and Health Services Unit both generally and in this instance. Kate Pape's position is Health Services Administrator and she relies upon and works closely with Dr. Estess in the provision of mental health

services at the Jail. In her capacity as Health Services Administrator, she learned about Mr. Munroe, his stays at the Ada County Jail, and his death.

51. Jeffrey Keller, M.D., Physician, Jail Medical Services, Jail and Court Services Bureau. Dr. Keller gained information about Mr. Munroe, his stays at the Jail and his passing through his contract employment with Ada County. Dr. Keller possesses information about the Jail and Health Services Unit both generally and in this instance. Jeffrey Keller contracted with the Ada County Sheriff's Office to provide physician services to the Ada County Jail.

52. Michael Estess, M.D., Psychiatrist, Jail Health Services Unit. Dr. Estess has been the Psychiatrist at the Ada County jail since the 1970s, sharing time with his private psychiatric practice and Idaho State Corrections Practice. He has treated patients, worked with outside and Jail providers, trained, evaluated overseen and worked with Jail staff, both medical and security. Dr. Estess has provided expertise to sheriffs, line employees and middle management at the Jail for policy development and professional development of the staff and care of inmates. Dr. Estess has gained information about the Jail and the Health Services Unit from his numerous years as the psychiatrist, and this case specifically since he was the Jail psychiatrist when it occurred. As part of his concern and duties, he spoke with the involved individuals and reviewed jail records and medical/mental health records concerning Mr. Munroe. Dr. Estess is familiar with the medications prescribed to Mr. Munroe while at the Ada County Jail, and is familiar with the facts thereof.

53. Karen Barrett, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Barrett gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Barrett possesses information about the Jail and Health Services Unit both generally and in this instance. Karen Barrett was a Physician's Assistant at the Ada County Jail during the time Mr. Munroe stayed at the Ada County Jail, and treated Mr. Munroe and prescribed him medications.

54. Deb Mabbutt, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Mabbutt gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Mabbutt possesses information about the Jail and Health Services Unit both generally and in this instance.

55. Rick Steinburg, Physician's Assistant, Jail Medical Services, Jail and Court Services Bureau. Mr. Steinburg gained information about Mr. Munroe, his stays at the Jail and his passing through his contract employment with the Sheriff's Office. Mr. Steinburg possesses information about the Jail and Health Services Unit both generally, and was contacted to do medical assessments for the Jail.

56. Cindy Hosmer, Certified Medical Assistant, Jail Medical Services, Jail and Court Services Bureau. Ms. Hosmer gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Hosmer possesses information about the Jail and Health Services Unit both generally and in this instance.

57. Sandra Hughes. Ms. Hughes gained information about Mr. Munroe, his stays at the Jail and his passing through her contract employment with the Sheriff's Office. Ms. Hughes possesses information about the Jail and Health Services Unit both generally and in this instance, but no longer works there.

58. Roberto Negron. Mr. Negron gained information about Mr. Munroe, his stays at the Jail and his passing through his contract employment with the Sheriff's Office. Mr. Negron possesses information about the Jail and Health Services Unit both generally and in this instance, but no longer works there.

59. James Saccamondo. Mr. Saccamondo gained information about Mr. Munroe, his stays at the Jail and his passing through his contract employment with the Sheriff's Office. Mr. Saccamondo possesses information about the Jail and Health Services Unit both generally and in this instance, but no longer works there.

60. James Johnson, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Johnson gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Mr. Johnson possesses information about the Jail and Health Services Unit both generally and in this instance. In his capacity as a Psychiatric Social Worker, Mr. Johnson worked as a team member with Kate Pape, Shanna Phillips, Dr. Estess, and the Health Services Unit staff to provide mental health services to the patients at the Ada County Jail. Mr. Johnson met with and assessed Mr. Munroe on two occasions, in a thirty-day stay early in September

2008, and again on the morning of September 29, 2008. Mr. Johnson's notes, statements, and affidavit have been provided to counsel.

61. Shanna Phillips, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Phillips gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Phillips worked as a team member with Kate Pape, James Johnson, Dr. Estess, and the Health Services Unit staff to provide mental health services to the patients at the Ada County Jail. In her capacity as a social worker, Ms. Phillips possesses information about the Jail and Health Services Unit both generally and in this instance, and was Mr. Johnson's supervisor.

62. Laura Senderowicz, MSW, Social Worker, Jail Medical Services, Jail and Court Services Bureau. Ms. Senderowicz gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Senderowicz possesses information about the Jail and Health Services Unit both generally and in this instance.

63. Timothy Huff, DDS, Dentist, Jail Medical Services, Jail and Court Services Bureau. Dr. Huff gained information about Mr. Munroe, his stays at the Jail and his passing through his contract employment with Ada County. Dr. Huff possesses information about the Jail and Health Services Unit both generally and in this instance.

64. Jenny Babbitt, Nursing Supervisor, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Babbitt gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the

Sheriff's Office. Ms. Babbitt possesses information about the Jail and Health Services Unit both generally and in this instance. Jenny Babbitt was a nurse at the Ada County Jail during the time frame in which Mr. Munroe stayed there in August and September 2008.

65. Andrew Archuleta, Medial Attendant, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Mr. Archuleta gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Mr. Archuleta possesses information about the Jail and Health Services Unit both generally and in this instance.

66. David Weich, Medical Attendant, Jail Medical Services, Jail and Court Services Bureau. Mr. Weich gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Mr. Weich possesses information about the Jail and Health Services Unit both generally and in this instance. David Weich was a Medical Attendant employed by the Ada County Jail during the time Mr. Munroe stayed there in August and September 2008.

67. Michael Brewer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Mr. Brewer gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Mr. Brewer possesses information about the Jail and Health Services Unit both generally and in this instance. Michael Brewer was employed as a nurse at the Ada County Jail and observed Mr. Munroe when he was arrested the evening of September 28, 2008.

68. Susan Cochran. Ms. Cochran may have gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Cochran possesses information about the Jail and Health Services Unit both generally and in this instance. She is no longer employed by the Sheriff.

69. Peni Dean, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Dean gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the Jail and Health Services Unit both generally and in this instance.

70. Sally McNees, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. McNees gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. McNees possesses information about the Jail and Health Services Unit both generally and in this instance.

71. Frances Pederson, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Pederson gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Pederson possesses information about the Jail and Health Services Unit both generally and in this instance.

72. Cindy Callaway, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Callaway gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Callaway possesses

information about the Jail and Health Services Unit both generally and in this instance.

73. Lanea Dean. Ms. Dean gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Dean possesses information about the Jail and Health Services Unit both generally and in this instance.

74. Lisa Farmer, Registered Nurse, Jail Medical Services, Jail and Court Services Bureau. Ms. Farmer gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Farmer possesses information about the Jail and Health Services Unit both generally and in this instance. Lisa Farmer is a Registered Nurse with the Ada County Jail and was employed and on duty during the time Mr. Munroe stayed there. Ms. Farmer saw Mr. Munroe for a medical complaint while he was an inmate at the Jail in September 2008.

75. Marsha Halstead, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Halstead gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Halstead possesses information about the Hail and Health Services Unit both generally and in this instance.

76. San Juana Hernandez, Registered Nurse, Jail Health Services Services, Jail and Court Services Bureau. Ms. Hernandez gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office.

Ms. Hernandez possesses information about the Jail and Health Services Unit both generally and in this instance.

77. Holly Kington (Harris), LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Kington gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Kington possesses information about the Jail and Health Services Unit both generally and in this instance.

78. Judy Skinner, LPN, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Skinner gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Skinner possesses information about the Jail and Health Services Unit both generally and in this instance.

79. Edward Walker, LPN, Jail Medical Services, Jail and Court Services Bureau. Mr. Walker gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Mr. Walker possesses information about the Jail and Health Services Unit both generally and in this instance.

80. Chelsy Weaver, LPN, Jail Medical Services, Jail and Court Services Bureau. Ms. Weaver gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Weaver possesses information about the Jail and Health Services Unit both generally and in this instance.

81. Leslie Robertson, Healthcare Administrative Supervisor, Jail Medical Services, Jail and Court Services Bureau. Ms. Robertson gained information about Mr.

Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Robertson possesses information about the Jail and Health Services Unit both generally and in this instance. Leslie Robertson worked in the Health Services Unit as an Office Administrator, and spoke with Rita Hoagland on September 29, 2008.

82. Samra Hamzic, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hamzic gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Hamzic possesses information about the Jail and Health Services Unit both generally and in this instance.

83. Robyn Malone, CNA, Jail Medical Services, Jail and Court Services Bureau. Ms. Malone gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Malone possesses information about the Jail and Health Services Unit both generally and in this instance.

84. Meliha Dzindo, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Dzindo gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Dzindo possesses information about the Jail and Health Services Unit both generally and in this instance.

85. Charity Hine, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau. Ms. Hine gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the

Sheriff's Office. Ms. Hine possesses information about the Jail and Health Services Unit both generally and in this instance.

86. Gayle Waite, Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Waite gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Waite possesses information about the Jail and Health Services Unit both generally and in this instance.

87. Terra Wills, P/T Health Services Administrative Technician, Jail Medical Services, Jail and Court Services Bureau (no longer employed). Ms. Wills gained information about Mr. Munroe, his stays at the Jail and his passing through employment with the Sheriff's Office. Ms. Wills possesses information about the Jail and Health Services Unit both generally and in this instance.

88. Jacob Nichols. Officer Nichols is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Nichols has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

89. Eric Urian. Officer Urian is a Boise City Police Officer involved in the investigation and arrest of Mr. Munroe which led to incarceration. Officer Urian has knowledge of the crime, BCPO procedures and certain of Mr. Munroe's conduct and pre-incarceration activities and actions.

90. Kevin Luby. Mr. Luby is an Ada County Paramedic who transported and treated Mr. Munroe after the robbery as well as after Mr. Munroe passed. Mr. Luby has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical

condition, his conduct, pre-incarceration activities and actions. Mr. Luby also treated and transported Mr. Munroe to Saint Alphonsus Regional Medical Center on September 29, 2008.

91. Petru Dina. Mr. Dina is an Ada County Paramedic who treated Mr. Munroe. Mr. Dina has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

92. Tina Rossi. Ms. Rossi is an Ada County Paramedic who treated Mr. Munroe. Ms. Rossi has knowledge of the crime, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

93. Jason Barnard. Mr. Barnard is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

94. Bert Torkelson. Mr. Torkelson is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition, conduct the night of his arrest and the bomb threats Mr. Munroe made.

95. Ryan Clever. Mr. Clever is a Boise City Firefighter. He may have knowledge about Mr. Munroe's arrest, medical condition; conduct the night of his arrest and the bomb threats Mr. Munroe made.

96. Brandon J. Wilding, M.D. Dr. Wilding is a physician and was on duty at Saint Alphonsus Hospital the night Mr. Munroe was arrested. He has knowledge about Mr. Munroe's arrest, medical condition, and conduct the night of his arrest on September 29, 2008.

97. Jason M. Quinn, M.D. Dr. Quinn is a physician. He was an emergency room doctor who saw Mr. Munroe after he passed away on September 29, 2008.

98. Dan LNU. Dan is an employee at St. Alphonsus Regional Medical Center. Dan has knowledge of Mr. Munroe after he was transported to the hospital.

99. Erwin Sonnenberg. Mr. Sonnenberg is the Ada County Coroner. Mr. Sonnenberg's office performed an investigation and autopsy after Mr. Munroe's death.

100. Glen R. Groben. Dr. Groben is the forensic pathologist employed by the Ada County Coroner's office. Dr. Groben performed the autopsy of Mr. Munroe. Dr. Groben formed an opinion as to the cause and manner of Mr. Munroe's death.

101. Robert Karinen. Mr. Karinen is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

102. Tom Howell. Mr. Howell is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death, including witness interviews and evidence gathering.

103. Doug Tucker. Mr. Tucker is an investigator employed by the Ada County Coroner's Office. He investigated the cause and manner of Mr. Munroe's death.

104. Cole Kelly. Ms. Kelly is a technician with the Ada County Coroner's Office. She can testify about the procedures taken after Mr. Munroe passed away.

105. Christopher K. Buck. Mr. Buck was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

106. Everett Bruce Cole. Mr. Cole was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

107. Charles G. Fordyce. Mr. Fordyce was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

108. Garrett M. McCoy. Mr. McCoy was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed.

109. Witnesses to the robbery of the Maverick Store, including customers and Maverick employees.

110. Past educators and school counselors of Mr. Munroe.

111. Friends of Mr. Munroe.

112. Past treating physicians of Mr. Munroe.

113. Past mental health counselors of Mr. Munroe.

114. Kim LNU, an employee of St. Alphonsus Regional Medical Center.

115. All friends and neighbors of Rita Hoagland.

116. All relatives of Rita Hoagland and/or Bradley Munroe.

117. All medical professionals who have provided any kind of care and treatment to Rita Hoagland. Defendants have very little information as to some of these professionals and providers since Plaintiffs continually refuse to supply it, but Plaintiffs are on notice that all medical professionals and providers who treated and/or provided medical assistance in any matter to Rita Hoagland, and prenatal care for Mr. Munroe, and any substance abuse treatment before, during, or after Mr. Munroe's birth. Any medical providers who have worked with Rita Hoagland after Mr. Munroe's birth up until the present in any medical and/or mental health capacity, including counseling.

118. Any medical and/or mental health providers who treated or have provided medications to Mr. Munroe during any period in his life.

119. Any records custodians for counselors, medical professionals, and medical providers who treated or have provided medications to Mr. Munroe or Rita Hoagland including, but not limited to Sutter-Roseville Medical, Terry Reilly Health Services, Dr. Mark Weinrobe, West Valley Medical Center, Sacramento County Mental Health, West Valley Counseling, and Community Outreach Counseling.

120. Any records custodians for medical clinics or pharmacies where Bradley Munroe had prescriptions filled including, but not limited to, WalMart, Albertsons/Supervalu, Rite Aid, and Terry Reilly Health Clinics.

121. Any and all witnesses employed by, on behalf of, either directly as employees or contract employees, or worked at the behest or guidance of the Department of Health and Welfare providing services to Rita Hoagland's family during any point in time.

122. Any victims or witnesses involved in any crime Rita Hoagland was charged with.

123. Any witnesses or victims of crimes committed by Mr. Munroe.

124. Any individuals who have knowledge of bankruptcies of Rita Hoagland and/or Greg Hoagland.

125. Any individuals who have knowledge of Rita Hoagland, Greg Hoagland, and/or Bradley Munroe.

126. Any employees of the Canyon County Juvenile Probation Department who interacted with Bradley Munroe and/or Bradley Munroe's family.

127. Any employees of any mental facility in California, Utah, or Idaho including, but not limited to the Weber County Jail in Ogden, Utah, Intermountain Hospital, Saint Alphonsus Regional Medical Center, Sacramento Mental Health Treatment Center, and Mercy San Juan.

128. Any medical professional who gave any medical assistance or counseling to Mr. Munroe including, but not limited to, those who treated him in California, Utah, the Idaho Department of Juvenile Corrections, the Idaho Youth Ranch, Saint Alphonsus Regional Medical Center, Intermountain Hospital, the Ada County Jail, and any other programs Mr. Munroe was involved in.

129. Any and all school counselors for Mr. Munroe.

130. Any individuals or families Mr. Munroe lived with in Astoria, California, Salt Lake City, and Boise.

131. Any and all witnesses from the Saint Alphonsus Behavioral Health Center in Boise, Intermountain Hospital, the Southwest Idaho Juvenile Detention Center in Caldwell, the Nampa Boys Home, Juvenile Correction Center in St. Anthony, Liberty Canyon Boys Ranch in Rupert, Idaho Youth Ranch in Rupert, Sacramento County Mental Health Treatment Center, and Lighthouse Rescue Mission in Caldwell.

132. Erwin Stinnett, Idaho Department of Juvenile Corrections. Mr. Stinnett was a services coordinator for Mr. Munroe and has extensive knowledge of Mr. Munroe's juvenile treatment and incarcerations.

133. Chris Taggart, Former PSR Worker with West Valley Counseling. Mr. Taggart was assigned as Bradley Munroe's PSR and knows Mr. Munroe and his family from these experiences.

134. Lester Andrews, Psychologist, Nampa High School.

135. Greg Almond, PSR Worker for the Department of Health and Welfare.

136. Keith Meyers and Mary Meyers, neighbors of Rita Hoagland, 8069 Melba Road, Melba, Idaho. Bradley Munroe lived with the Meyers for a period of time.

137. Will Meyers, friend of Bradley Munroe.

138. Ronya Hemenway, Canyon County Juvenile Probation. Ms. Hemenway interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer.

139. Elda Catalano, Canyon County Juvenile Probation Supervisor. Ms. Catanalo interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer.

140. Chelsea Newton, Canyon County Probation Officer. Ms. Newton interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer.

141. Kris Evans, Canyon County Probation Officer. Ms. Evans interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer.

142. Individuals, teachers, and counselors from Grace Christian Academy, Lincoln Elementary in Nampa/Caldwell, Northwest Children's Home in Nampa, the Nampa Boys Home, the Patriot Center in Emmett, Elk Ridge School, Liberty

Road School, Liberty Canyon Boys Ranch, Juniper Hills School in Nampa, Juniper Hills School in St. Anthony, Caldwell High School, and Melba High School.

143. Arnold W. Hammari, L.C.S.W. Mr. Hammari is employed by the Department of Juvenile Corrections and in 2004 met with Bradley Munroe to perform a complete social history and recommendation of Bradley Munroe and his family.

144. Nurse Hensel, Saint Alphonsus Regional Medical Center.

145. Steven Hill, Ph.D., Terry Reilly Health Services.

146. Janet Graf, Nurse Practitioner, Saint Alphonsus Regional Medical Center/Intermountain Hospital. Ms. Graf evaluated Bradley Munroe during his stays at Intermountain Hospital.

147. Dennis Woody, Ph.D., Pediatric Neuropsychiatrist, Idaho Elks Hospital. Dr. Woody performed an assessment of Bradley Munroe. He made findings about Bradley Munroe and his family, as well as recommendations.

148. Richard Pines, D.O., 131 N. Allumbaugh, Boise, ID. Dr. Pines is a child psychiatrist who treated Bradley Munroe.

149. Kristina Harrington, M.D. Dr. Harrington was Bradley Munroe's attending physician at Intermountain Hospital in 2001. She made a number of findings about Bradley Munroe and recommendations regarding Bradley and his family.

150. Jose M. Valle, M.S.W., Department of Health and Welfare. Mr. Valle oversaw Mr. Munroe's Health and Welfare interactions, and made findings about Mr. Munroe and his family.

151. Jerry Lilly, Behavioral Specialist, Melba School District. Mr. Lilly was employed by Melba School District during the periods Bradley Munroe was student there, including 2000-2003.

152. Robin Carter, Regional Consultant for Northwest Children's Home Education Center, Melba School District.

153. Carol Cushing, Assistant Director of the Northwest Children's Home Education Center.

154. Glenda Cariaga, Northwest Children's Home Education Center, Special Education Teacher, Melba School District.

155. Mary Friddle, Special Education Teacher, Melba School District. Employed by Melba School District in 2001 when Bradley Munroe was a student.

156. Mary Newhouse, Melba School District.

157. Bill Graham, Melba Middle School Principal. Mr. Graham was present at the TEAM Meetings regarding Bradley Munroe which were held in 2000-2001.

158. Mike Dudley, Special Education Coordinator, Melba School District. Mr. Dudley was employed by Melba School District in 2001 and may have come into contact with Mr. Munroe.

159. Judy Johnson, Special Education Teacher, Melba School District. Employed by Melba School District in 2000-2001 and may have knowledge about Bradley Munroe as a student.

160. Sue Yoshikari, Melba School District.

161. Bob Larson, Special Education Director, Melba School District.

162. Sherron Schlapia, 14130 Jewels Place, Melba, ID 83641. Bradley Munroe spent time with the Schlapias including living with them for a period of time. Ms. Schlapia knew Bradley and Rita Hoagland and interacted with both.

163. Gary Schlapia, 14130 Jewels Place, Melba, ID 83641. Bradley Munroe spent time with the Schlapias including living with them for a period of time. Mr. Schlapia knew Bradley and Rita Hoagland and interacted with both.

164. Bo Schlapia. Friend of Bradley Munroe. Bradley Munroe spent time with the Schlapias including living with them for a period of time. Bo knew Bradley and spoke with Rita.

165. M. Lincoln, Melba High School.

166. Bob Lenz, School Counselor, Melba High School. Mr. Lenz was employed by Melba School District and may have knowledge about Bradley Munroe as a student during 2000-2003.

167. Vaughn Jordan, Special Education Teacher, St. Anthony. May have knowledge about Bradley Munroe's stay there in 2005.

168. Alicia Caiola, Education Records Technician, Department of Corrections.

169. Scott Curtis, M.S.W., Department of Health and Welfare. Mr. Curtis was an M.S.W. Intern with the Department of Health and Welfare in 2001 and met with, and assessed Bradley Munroe.

170. Bob Levy, Melba High School Counselor.

171. Deborah Egusquiza, Special Education Teacher, Melba Middle School. Employed by Melba Middle School in 2003 when Bradley Munroe was a student.

172. Debbie Mason, Melba Middle School. Participated in Bradley Munroe's T.E.A.M. Meetings in 2000-2001.

173. Mary Neumeyer, Psychologist, Melba School District. Ms. Neumeyer may have knowledge of Bradley Munroe as a student 2001-2003.

174. Jodi Endicott, address unknown.

175. Steve Mitchell, address unknown.

176. Angela Hurn, address unknown.

177. Ron Johnshoy, address unknown.

178. M.V. Larsen, Special Education Department, Melba School District.

179. Mary Bostwich, Regional Director.

180. Dr. Kinsey was listed as one of Bradley Munroe's former psychiatrists on an Intermountain Admission Sheet.

181. Dr. Sterling, Department of Health and Welfare.

182. Dr. Steinberg, West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID.

183. Aaron Jericoff, Friend of Bradley Munroe.

184. Derrick Eckiwaudah, Friend of Bradley Munroe.

185. Jan Epps, Inspector for the NCCHC, 1145 W. Diversey Parkway, Chicago, IL 60614 (773) 880-1460. Ms. Epps has a Boise Office and was an inspector of the Ada County Jail for the NCCHC.

186. Trisha McNeal, Nampa Boys Home. Ms. McNeal was employed by Nampa Boys Home as a Senior Youth Specialist and may have knowledge of Bradley Munroe during his stay there.

187. Shelly Hinz, Childrens Mental Health Services.

188. Monica (last name unknown), Children's Mental Health Services intake worker.

189. George Hage, Occupational Therapist, Idaho Elks Rehabilitation. Conducted an initial evaluation of Bradley Munroe in 2003.

190. Sandra Wood, Speech and Language Therapist, Idaho Elks Rehabilitation.

191. Renee Moon, 6840 Warren Spur Road, Melba, ID. Rene Moon knew Bradley Munroe and his family for a number of years, and was his girlfriend for a period of time.

192. Lisa Moon, 6840 Warren Spur Road, Melba, ID. Lisa Moon is Rene's mother; she knew and interacted with Bradley Munroe and the Munroe family.

193. Kelly S. Anderson, former P.S.R. worker for Region III Health and Welfare, 5817 Idaho Street, Vancouver, WA 98661. Ms. Anderson was assigned as Bradley Munroe's PSR and has information about Mr. Munroe and his family.

194. Kristy Moore, PSR Worker.

195. Holly Grow (Waite), Clinician. Ms. Grow (Waite) was a Region III Health and Welfare Caseworker in 2001-2002.

196. Jeff Harry, Social Worker, formerly with Nampa School District, now with Kuna School District. Mr. Harry was a counselor of Bradley Munroe's while Bradley attended Nampa Schools and interacted with Bradley.

197. Benjamin Earwicker, employed by Region III Health and Welfare, Family and Children's Services in 2001.

198. Darren E., Friend of Bradley Munroe.

199. Jeremy Stocket, Friend of Bradley Munroe from Nampa Boys Home.

200. Sharon Marler, Juniper Hills High School, State Juvenile Corrections Center, 3000 11th Ave North Extension, Nampa, ID, 624-3462.

201. Lucy Logan, Juniper Hills High School, Nampa.

202. Jenna Tarabochia, Astoria High School, (503) 325-3911.

203. Jim Vail, Canyon County Sheriff's Office.

204. Detective Tracy Kimberling, Canyon County Sheriff's Office.

205. Officer Miller, Canyon County Sheriff's Office.

206. Thomas D. Burreal, Region III Health and Welfare.

207. Chris Kelly, West Valley Counseling.

208. Diane Brown, West Valley Counseling.

209. Holly Brown, West Valley Counseling.

210. Dr. Larry Banta, Child psychiatrist, West Valley Medical Center, 1717 Arlington Avenue, Caldwell, ID 83605.

211. Greg Goodchild, Sacramento Mental Health Treatment Center in March 2008 when Bradley Munroe was a patient.

212. Alisha Lynn, Victim-Witness Coordinator, Canyon County Prosecutor's Office. Ms. Lynn has information regarding conversations with Rita Hoagland and about Bradley Munroe.

213. Dr. Cunningham, Lincoln Elementary School.

214. Karyn Reed, T.E.A.M. School.

215. Mr./Mrs. Ackenbach and Veseress, Intermountain Hospital.

216. Mr./Mrs. Jessness, Saint Alphonsus Regional Medical Center.

217. Carl Butler, T.E.A.M. School. Currently employed with Columbia High School.

218. Liz LaFranier, T.E.A.M. School.

219. Susan Stimpson, T.E.A.M. School.

220. Kent Christopher, Core Teacher, Juniper Hills School, St. Anthony.

221. Bob Butterfield, M.Ed., School Clinician, Juniper Hills School, Nampa.

222. S. Abransohn, Juniper Hills School, Nampa.

223. D. Winkler, Juniper Hills School, Nampa.

224. Dave Rollins, Vice Principal, St. Anthony.

225. Daniel Rollins, Core Teacher, Nampa School District.

226. Eileen O'Shea, Special Education Teacher, Nampa School District.

227. Audra Bryant, Special Education Teacher, Nampa School District.

228. Steven Bushi, M.D., Psychiatrist at Intermountain Hospital in 2008. Dr. Bushi saw Bradley Munroe at Intermountain Hospital, made findings about him, and prescribed medications.

229. Dr. Battaglia, University of Utah Hospital.

230. Deborah Frances, M.D., University of Utah Hospital.

231. Monica Ashton, M.S.W., University of Utah Hospital.

232. Bryan D. Bingham, L.C.S.W., Weber County Jail, Ogden, Utah. Mr. Bingham evaluated Bradley Munroe during a stay at the Weber County Jail.

233. Sgt. Slater Bradly, Weber County Sheriff's Office.

234. Heidi Friend.

235. Nurse Cox, Saint Alphonsus Regional Medical Center.

236. Dr. Ashby, Saint Alphonsus Regional Medical Center.

237. Jerry Ashley, District Manager, IHOP, (435) 232-4135. Bradley Munroe was hired by and terminated by IHOP.

238. Timothy Bales. As owner of the Melba Quick Stop, Mr. Bales knew and supervised both Rita Hoagland and Bradley Munroe.

239. Wayne S. Thom, M.D., Sacramento County Health Treatment Center.

240. Oladipo ("Ladi") Kukoyi, M.D., VA Northern California Health Care System, 10535 Hospital Way 116/JPG, Mather, CA 93655. Dr. Kukoyi treated Bradley Munroe at the Sacramento County Health Treatment Center in 2008.

241. Dr. McCarron, Psychiatrist, Sacramento County Mental Health Treatment Center. Dr. McCarron treated Bradley Munroe in 2008 at the Sacramento County Mental Heath Treatment Center.

242. Amy Burton, Mental Health Clinician, Sacramento County Health Treatment Center.

243. Dr. Misty, Sacramento County Health Treatment Center. Treated Bradley Munroe in 2008.

244. H. May, M.D., Sacramento County Health Treatment Center.

245. Daniel Biggs, L.C.S.W., Sacramento County Mental Health Treatment Center.

246. Nurse Hendarm, Sacramento County Mental Health Treatment Center, Employed by 2008.

247. Sandy Wells, C.S.W.P., Saint Alphonsus Regional Medical Center.

248. Troy Packard, Manager, International House of Pancakes, Nampa.

249. Wade Falconburg, L.C.S.W., LCSW, LSW, Clinician, Idaho Youth Ranch. Employed by Idaho Youth Ranch in 2004 when Bradley Munroe was housed there.

250. Sharon Steele, Ph.D., Chief Clinician, Idaho Youth Ranch.

251. Cameron McBride, Program Director, Idaho Youth Ranch.

252. Jim Conger, Lodge Supervisor, Idaho Youth Ranch. Mr. Conger was employed by Idaho Youth Ranch in 2004 when Bradley Munroe was there.

253. Bill Coblentz, Primary Youth Specialist, Idaho Youth Ranch. Mr. Coblentz was employed by Idaho Youth Ranch in 2004 when Bradley Munroe was there.

254. Ellen Swanson, Juvenile Probation Officer, St. Anthony and Canyon County. Ms. Swanson interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer at St. Anthony and/or Canyon County.

255. Shane Elliot, Group Leader, St. Anthony. Mr. Elliot was employed by St. Anthony in 2005 when Bradley Munroe was housed there.

256. John Hemer, Juvenile Probation Officer.

257. All supervisors and workers that have worked with Rita Hoagland in any capacity in any job including, but not limited to, schools and restaurants.

258. Joan Peterson, Human Resources Manager, Nampa School District, 619 S. Canyon, Nampa, Idaho 83686.

259. Michelle Esterline. Ms. Esterline was employed as the Nutritional Services Supervisor for the Nampa School District when Rita Hoagland was employed there.

260. Bonnie Kruse, Nutrition Services Manager, Sunny Ridge Elementary School, Nampa School District. Ms. Kruse worked with Rita Hoagland in 2003 at Sunny Ridge Elementary School.

261. Annie Dunn, Nampa School District. Ms. Dunn was a coworker of Rita Hoagland at Sunny Ridge Elementary.

262. Jack Swafford, Swafford Law Offices, 1721 S. 5th Avenue, Caldwell, Idaho.

263. Lisa Swafford, Swafford Law Offices, 1721 S. 5th Avenue, Caldwell, Idaho.

264. Jim Rush, 900 E. Karcher Road, Nampa, Idaho.

265. Mike Delgard, 415 E. Cleveland, Caldwell, Idaho. Former supervisor of Rita Hoagland.

266. M. Mori, Express Personnel. Mr./Ms. Mori may have knowledge of Rita Hoagland's employment.

267. Rick Birdsong, Mini-Cassia Juvenile Detention Center.

268. Don Garner, Director, Mini-Cassia Juvenile Detention Center in 2004 when Bradley Munroe was housed there.

269. Sheryl Brown, Mini-Cassia Juvenile Detention Center.

270. Ray Mooso, Mini-Cassia Juvenile Detention Center. Mr. Mooso was employed as a Detention Officer in 2004 when Bradley Munroe was housed there.

271. Lori Berg, Detention Officer, Mini-Cassia Juvenile Detention Center.

272. Becky Carter, Mini-Cassia Juvenile Detention Center.

273. Becky Castro, employed by Mini-Cassia Juvenile Detention Center when Bradley Munroe was there in 2004.

274. Frank Marker, Mini-Cassia Juvenile Detention Center.

275. Colleen Howard, Mini-Cassia Juvenile Detention Center. Ms. Howard was employed by Mini-Cassia Juvenile Detention Center in 2004 and may have knowledge about Bradley Munroe's stay there.

276. Chris Stewart, Mini-Cassia Juvenile Detention Center.

277. Stephanie Breach, Canyon County Juvenile Center, Probation Officer Supervisor. Ms. Breach interacted with Bradley Munroe and his family, and is familiar with records from her offices.

278. Hanna Lee, Canyon County Juvenile Center. Ms. Lee may have knowledge about Bradley Munroe's Canyon County case # CV-2004-0000254.

279. Renee Waite, former Lodge Supervisor, Idaho Youth Ranch. Currently employed with Ada County Juvenile Probation. Ms. Waite interacted with Bradley Munroe while Bradley was held at the Idaho Youth Ranch.

280. Dr. Brads, Idaho Elks Rehabilitation Hospital.

281. Brandon Lane, Physician's Assistant, Terry Reilly Medical Center, 150 Broadway Avenue, Melba, Idaho. Mr. Lane treated Bradley Munroe in 2003 and referred him to Idaho Elks Hospital for psychiatric evaluation.

282. Jonathon Bowman, M.D., Terry Reilly Medical Center, 150 Broadway Avenue, Melba, Idaho.

283. Dr. Bettis, Idaho Elks Rehabilitation Hospital.

284. Robert Friedman, M.D., Idaho Elks Rehabilitation Hospital.

285. Terry Lewis, P.A.-C., Melba Medical, 150 2nd Avenue, Melba, Idaho. Rita Hoagland was a patient of Mr. Lewis.

286. A. Pendleton Beach, M.D., Melba Medical 150 2nd Avenue, Melba, Idaho.

287. David Giles, M.D., Mercy Medical Center, 1512 12th Avenue Road, Nampa, ID.

288. Elise Hughes, M.D., Mercy Medical Center, 1512 12th Avenue Road, Nampa, ID. Rita Hoagland was a patient of Dr. Hughes.

289. Ruth Earley, F.N.P., Mercy Medical Center, 1512 12th Avenue Road, Nampa, ID. Ms. Earley treated Rita Hoagland.

290. L. Shane Carlson, Idaho Youth Ranch Group Leader in 2002.

291. Charlotte Eshelman, F.N.P., Melba Family Medical Clinic, 317 Broadway, Melba, Idaho. Rita Hoagland was a patient of Ms. Eshelman.

292. Lisa Koltes, M.D., Family Medical Clinic, 1819 Ellis, Caldwell. Rita Hoagland was a patient of Dr. Koltes in 1999.

293. S. Portenier, M.D., Caldwell Medical Group, 222 E. Logan, Caldwell, Idaho.

294. Connie Pyles, P.A., Caldwell Medical Group, 222 E. Logan, Caldwell, Idaho.

295. C. McConnell, M.D., Caldwell Medical Group, 222 E. Logan, Caldwell, Idaho.

296. Barbara Heggerty, M.D., Caldwell Medical Group, 222 E. Logan, Caldwell, Idaho.

297. Terry A. Stoll, M.D., West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID.

298. T. Lewis, M.D.

299. Steven Binze, M.D.

300. James Engelhart, M.D., Mercy Medical Center, 1512 12th Avenue Road, Nampa, Idaho.

301. John Truksa, Mercy Medical Center, 1512 12th Avenue Road, Nampa, Idaho.

302. Mark Weinrobe, M.D., Elks Internal Medicine, 1600 N. Robbins Road, Suite 301, Boise, ID. Dr. Weinrobe has seen Ms. Hoagland over a period of years and has seen and treated Ms. Hoagland regarding a number of Ms. Hoagland's medical concerns.

303. Mary Mebane, P.A.-C., St. Luke's Health System, S.L.I.N. Park Center Office, 701 E. Park Center Blvd., Boise.

304. Ronald Cornwell, M.D., West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID. Dr. Cornwell treated Rita Hoagland (Munroe) in 1995.

305. George Nicola, M.D., West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID. Rita Hoagland was a patient of Dr. Nicola in 1995.

306. Diane Turner, M.D., West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID.

307. William J. Dubiel, M.D., West Valley Medical Center, 1717 Arlington Ave., Caldwell, ID.

308. Michael Horton, P.O. Box 241, Melba, Idaho. Mr. Horton was an Ada County Jail inmate incarcerated at the same time as Mr. Munroe. He can testify as to what he observed during the time period Mr. Munroe was in the Ada County Jail.

309. Matt Richey, Grace Christian, 415 E. Ustick, Caldwell, ID 454-0849.

310. Dave Reynolds, Grace Christian Academy, 415 E. Ustick, Caldwell, ID 454-0849.

311. Susan Korn, Special Education Case Manager, 465-2760. Ms. Korn was formerly a TEAM Teacher from 2002-2004 and has knowledge about Bradley Munroe as a student and Rita Hoagland from her interaction with both.

312. Tammy Parker, Victim-Witness Coordinator, Ada County Sheriff's Office. Ms. Parker met with Rita Hoagland after Bradley Munroe's passing and continued contact with the family.

313. Emily Zito (formerly Harper), Canyon County Juvenile Probation. Ms. Zito interacted with Bradley Munroe, Rita Hoagland, and Greg Hoagland as Bradley's juvenile probation officer.

314. Sal Banuelos, Labor Ready, 1088 N. Orchard, Boise, ID.

315. Sarah Hancok, Payroll Practitioner/Records Custodian, Labor Ready, 1015 A. Street, Tacoma, WA.

316. Jeni Alwander, Opts Spec., Labor Ready.

317. Felicia Eckston, Labor Ready, 1604 Garrity, Nampa, ID 83607.

318. Holly Woodcock, Clinic JCC, St. Anthony.

319. Mark Chapman, Security JCC, St. Anthony.

320. Keith Ritchie, Therapy Technician, JCC, St. Anthony.

321. Jim Hermosillo, JCC, St. Anthony.

322. Brad Orme, Group Leader, JCC, St. Anthony. Mr. Orme spoke with Bradley Munroe and interacted with his family.

323. Don Gorton, JCC Staff, St. Anthony.

324. Skip Greene, JCC Staff, St. Anthony.

325. Beverly Wilder, JCC Staff, St. Anthony.

326. Daniel Bostie, JCC Staff, St. Anthony.

327. Bob Stacy, Intake, JCC, St. Anthony.

328. Betty Moch, Intervener.

329. Terri Roats, Juvenile Probation Officer, Canyon County. Mr. Roats has knowledge of Bradley Munroe and his family, pursuant to her duties as a juvenile probation officer.

330. Hans Madsen, Liberty Canyon Boys Ranch. Mr. Madsen was employed by Liberty Canyon Boys Ranch and may have knowledge of Bradley's Munroe's stays there in 2004.

331. N. Rainey, Liberty Canyon Boys Ranch.

332. Mr. Underbil, Liberty Canyon Boys Ranch.

333. Ms. Cambell, Liberty Canyon Boys Ranch.

334. Tyson Christensen, employed by Idaho Youth Ranch in 2004 when Bradley Munroe was there.

335. Mitch Hodge, Idaho Youth Ranch. Employed by Idaho Youth Ranch in 2004 when Bradley Munroe was housed there.

336. Donna Hislop, Clinical Supervisor, Idaho Department of Juvenile Corrections.

337. Michelle Roeder, Children's Mental Health Clinician, Saint Alphonsus Behavioral Health.

338. Marilyn Watts, Psychologist, Caldwell School District.

339. Margaret Gross, Northwest Children's Home Center.

340. Tim McGee, Acting Clinical Supervisor.

341. Michael J. Eisenbeiss, Psychologist, Intermountain Hospital. Employed by Intermountain Hospital in 2001 when Bradley Munroe was a patient. Dr. Eisenbeiss was consulted by Dr. Harrington for psychological testing of Bradley Munroe and has knowledge of his interview and testing of Bradley.

342. Kevin Boren, Group Leader, Liberty Canyon Boys Ranch in 2004.

343. Christina Brockbank, L.S.W., Group Leader, Patriot Center, 330 W. Main, Emmett, ID. Ms. Brockbank worked with Bradley Munroe at the Patriot Center had has knowledge about Bradley and his family.

344. D. Barber, Boise Police Department, investigated Maverick Store Robbery on September 28, 2008.

345. Ryan Barr, Liberty Canyon Boys Ranch.

346. Tony Bell, Idaho Youth Ranch.

347. Stephen Bienz, M.D., Melba Clinic, 150 2nd Street, Melba ID 83641, listed as treating physician for Rita Hoagland.

348. Steve Bonas, Boise Police Department, investigation 8/28/08 incident at Winco. Officer Bonas investigated Bradley Munroe's attempted theft from the Winco Store on Fairview.

349. Jude Boutsaska, PA-C, Intermountain Hospital; consulted 4/5/02 at Intermountain Hospital for metabolic, neurologic, and endocrine function. Dr. Burns was his attending physician.

350. Brian Bowers, Northwest Children's Home Education Center, 504 E. Florida, Nampa, ID 83686, Brad Munroe's Jr. High Teacher in 2001.

351. Sgt. Slater Bradley, Weber County Jail.

352. Tyler Bradley, P.O. Box 251, Pierce, ID 83546, friend of Brad's from Liberty.

353. Gary J. Brandecker, M.D., St. Luke's Meridian Emergency Department, saw Rita Hoagland in 2006.

354. Mike Breech, Director of Special Education, Nampa School District.

355. Tammy Brown, Canyon County Probation Officer for Brad Munroe's case JV-03-467. In her capacity as a juvenile probation officer, Brown has knowledge about Bradley Munroe and his family.

356. James Buck, Liberty Canyon Boys Ranch. Mr. Buck worked at Liberty Canyon Boys Ranch when Bradley Munroe was housed there in 2004.

357. John B. Burns, M.D., Intermountain Hospital. Dr. Burns was Bradley Munroe's attending physician at Intermountain Hospital in 2002.

358. Chrystal Canoy, 143 Delaware, Nampa, ID. As a cousin of Bradley Munroe, Canoy knew Bradley and his family.

359. Ada County Deputy Clerk, Records Custodian for Bradley Munroe's Ada County Court records. Bradley Munroe made Ada County court appearances and the Clerk's Office keeps records from those appearances and a description of each. Further, a Deputy Clerk from the Clerk's Office is the custodian of Ada County Court records, and can testify to the contents therein regarding the details of the incarceration.

360. Clint Coddington, Ada County Public Defender. Mr. Coddington was Bradley Munroe's public defender for Case No. CR-FE-2008-17271 and appeared at Mr. Munroe's 9/29/08 arraignment.

361. Ileana Cordova, Idaho Youth Ranch Family Consultant, Nampa Boys Home. Ms. Cordova was employed by Idaho Youth Ranch/Nampa Boys Home and may have come into contact with Bradley Munroe during his stay there in 2002-2003.

362. Brad Davis, formerly with Northwest Children's Home Education Center. Is now employed by Caldwell Schools.

363. Kim Davis, M.D., Sacramento County Mental Health Treatment Center.

364. Andrea Dearden, Community Information Specialist, Ada County Sheriff's Office.

365. Cathie H. Delewski, DW, LCSW, University of Utah Hospital. Employed by University of Utah Hospital in 2008 and may have treated Bradley Munroe.

366. Raquel Durrant, Inmate Records Supervisor, Ada County Sheriff's Office. Ms. Durrant has knowledge about all Ada County inmate records about Mr. Munroe.

367. Kristi Evuchus, Firehouse Restaurant. Ms. Evuchus worked with Rita Hoagland and has knowledge about both Rita Hoagland and Bradley Munroe.

368. Greg Galloway, MSN, West Valley Medical Center. Employed by West Valley Medical Center and may have seen Bradley Munroe in Emergency Room in 2002.

369. Detective Chris Garrison, Canyon County Sheriff's Office.

370. Gary Gauntt, Idaho Department of Corrections. Mr. Gauntt was Rita Hoagland's boyfriend for a number of years and has knowledge about both her and her family.

371. Deborah S. Glasscock, LMSW, 404 Garland Street, Nampa, Idaho. Rita Hoagland's mental health counselor. Ms. Hoagland forwarded in both her discovery responses and deposition she has ongoing treatment with Glasscock.

372. Jack Godfrey. Mr. Godfrey was employed by Idaho Youth Ranch in 2004 when Bradley Munroe was housed there.

373. Doug Haneborg, Express Personnel, 8390 W. Overland Road, Boise, ID 83709. May have knowledge or records regarding Rita Hoagland's previous employment through Express Personnel.

374. Officer Craig Nelson, Nampa Police Department. Officer Nelson was dispatched to Nampa Boys Home when Bradley Munroe was housed there.

375. Ed Harrison, Director, NCCHC, 1145 W. Diversey Parkway, Chicago, IL 60614 (773) 880-1460.

376. Katie Hart, Bereavement Coordinator, Guardian Home Care/Hospice, 512 N. Kings Road, Nampa, ID. Rita Hoagland's counselor.

377. Barbara Hegarty, M.D., Caldwell Medical Group, 222 East Logan, Caldwell, ID 83605. Examined Rita Hoagland in 1997.

378. Kay Henry, Human Resources Manager, Ada County Sheriff's Office.

379. Karl Hinz, Youth Group Volunteer, 7 Randolph, Melba, Idaho. Youth Group volunteer through Melba Baptist Church. Mr. Hinz interacted with Bradley Munroe while he was in Melba Youth Group, spoke with Bradley and knew of Bradley's home life and living conditions.

380. Donna and Keith Hoagland.

381. Gabriel Hofkins, Canyon County Juvenile Detention Officer. Employed by Canyon County in 2003.

382. John Homer, Canyon County Probation Officer. Employed by Canyon County as a probation officer in 2004.

383. Dave Hottel, Liberty Canyon Boys Ranch. Mr. Hottel was employed by Liberty Canyon Boys Ranch in 2004 and may have knowledge about Bradley Munroe's stay there.

384. Becky Huddleston, P.O. Box of 984, Astoria, OR 97103-0984, Astoria, OR. Ms. Huddleston has knowledge of Bradley Munroe and his family, especially from the time period Bradley lived with her family in Astoria, OR.

385. Linda Hurd, Canyon County Juvenile Probation.

386. Grant Jones, 1604 W. Orchard, Nampa. Mr. Jones was previously employed by IHOP and may have knowledge about Bradley Munroe's employment there.

387. Travis Jones, inmate at JCC in Nampa and became friends with Bradley Munroe in 2007.

388. Shane Kelly was employed by Winco Foods in 2008 and has knowledge about Bradley Munroe's theft.

389. Janet Klaudt is a retired schoolteacher. She was employed at Lincoln Elementary and may have knowledge of Bradley Munroe as a student.

390. Grant Knapp.

391. Carry Krill, M.D. Dr. Krill was listed as a former psychiatrist on a hospital admission sheet.

392. Detective Brian Lee, Boise City Police Department. Detective Lee investigated the Maverick Store robbery in 2008.

393. Zachary Lopez, Idaho Youth Ranch, Nampa Boys Home Facility Manager. Mr. Lopez was employed by Nampa Boys Home and may have knowledge of Bradley's Munroe's stays there in 2002-2003.

394. Amy Lucia, Family Consultant, Nampa Boys Home/Idaho Youth Ranch, 4403 E. Locust Lane, Nampa, ID. Ms. Lucia was employed by Nampa Boys Home and may have knowledge of Bradley's Munroe's stays there in 2002-2003.

395. Cindy Malm, Evaluator, Idaho Sheriff's Association, W. River Street, Suite 100, Boise, ID 83702. Ms. Malm inspects Idaho jails to ensure they are operated in compliance with Idaho state law. She inspected the Ada County Jail.

396. Nick Albers, Idaho Jail Inspector, Idaho Sheriff's Association, W. River Street, Suite 100, Boise, ID 83702. Mr. Albers inspected the Ada County Jail consistent with his position with the Idaho Sheriff's Association.

397. Paula Marcotte, Community Outreach Counseling, 1031 W Sanetta St., Nampa ID 83651. Ms. Marcotte operates Community Outreach Counseling that employed Deborah Glasscock, and may have records relating to Rita Hoagland.

398. Jeanne Marshall, 190 SW Agee Street, McMinnville, OR. Bradley Munroe's aunt.

399. Sam Mauk, Nampa Boys Home, Idaho Youth Ranch, 4403 E. Locust Lane, Nampa, ID 83686. Mr. Mauk was employed by Nampa Boys Home as a Primary Youth Specialist and may have knowledge of Bradley's Munroe's stays there in 2002-2003.

400. Katie McCurdy, Director of Pediatrics, Idaho Elks Rehabilitation Hospital, 600 N. Robbins Road, Boise, ID 83701. Ms. McKurdy conducted a neuro-evaluation of Bradley Munroe under the direction of Dennis Woody.

401. Julie McKay, Central Control Supervisor, Ada County Sheriff's Office. Records custodian for Ada County Jail inmate telephone records.

402. Officer G. McKean, Boise Police Department. Officer McKean investigated Bradley Munroe's Winco shoplifting incident in 2007.

403. Peggy Mckean, Liberty Canyon Boys Ranch. Ms. McKean was employed by Liberty Canyon Boys Ranch and may have knowledge of Bradley's Munroe's stays there in 2004.

404. Fulton McKinney, a friend of Bradley Munroe.

405. E.A. Mendez, Liberty Canyon Boys Ranch. Mr./Ms. Mendez was employed by Liberty Canyon Boys Ranch in 2004 and may have knowledge of Bradley Munroe and his stay there.

406. Mark Menering, Social Worker with Nampa School District. May have knowledge of Bradley Munroe as a student with the Nampa School District.

407. Erin Miller, Clincian, Sacramento County Mental Health Treatment Center. Conducted as Assessment of Bradley Munroe in 2008.

408. Officer E. Moreno, Boise Police Department. Officer Moreno responded to the Maverick Store theft in 2008.

409. Jerry Mullenix, 716 N. Orchard Boise, ID 83705, was friends with Bradley Munroe. Mr. Mullenix befriended Bradley Munroe in 2008 and invited Mr. Munroe to live with him in his home in August and September 2008. Mr. Mullenix has knowledge of Mr. Munroe's life for those days and found Mr. Munroe's medications and belongings and delivered them to Rita Hoagland.

410. Brittany Munroe. Bradley Munroe's sister. Ms. Munroe grew up with Bradley and has knowledge about Bradley's home life.

411. Mark Nelson, Idaho Youth Ranch. Mr. Nelson was employed by the Idaho Youth Ranch in 2004 when Bradley Munroe was housed there.

412. Philip Oliver, EMT-P, Ada County Paramedics. Mr. Oliver is an Ada County Paramedic who treated Mr. Munroe. Mr. Oliver has knowledge of Bradley's criminal conduct, Ada County EMS procedures, Mr. Munroe's medical condition, his conduct, pre-incarceration activities and actions.

413. Amy Olson, Family Community Specialist/Treatment Coordinator for Nampa Boys Home. May have knowledge about Bradley Munroe while he was housed there.

414. M.K. Pavlick, Northwest Children's Home Education Center, 504 E. Florida, Nampa, Idaho.

415. Debra Pelmont, 1640 Spruce Creek Loop, Nampa, Idaho. Ms. Pelmont may have spoken to Rita Hoagland about Bradley Munroe's death.

416. Charlie Randall, 7801 Murphy Road, Melba, Idaho. Friend of Bradley Munroe.

417. Gary Raney, Ada County Sheriff. Gary Raney is the elected Ada County Sheriff and has knowledge about the Ada County Sheriff's Department and the Ada County Jail and his reliance upon Dr. Estess and Kate Pape in the operation of the medical and mental health portions of the Health Services Unit of the Ada County Jail.

418. Holly Reese. Bradley Munroe's 5th grade teacher.

419. William Rice, Idaho Youth Ranch.

420. Jamie Roach, Ada County Sheriff's Office. Ms. Roach is a detention deputy with the Ada County Jail. She may have interacted with Bradley Munroe in that capacity.